

## EXHIBIT 2

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1	IN THE UNITED STATES DISTRICT COURT FOR THE SOUTHERN DISTRICT OF TEXAS 2 HOUSTON DIVISION	
3	JAMES PHILLIPS, ET AL. ) Plaintiffs ) 4 ) 5 VS. ) Civil Action No. ) 4:18-cv-00821 6 WIPRO LIMITED, ) 7 Defendant ) 8 *****	
9	ORAL AND VIDEOTAPED DEPOSITION OF DAVID NEUMARK, PH.D. 10 AUGUST 25, 2021 11 *****	
12	ORAL AND VIDEOTAPED DEPOSITION OF DAVID NEUMARK, 13 PH.D., produced as a witness at the instance of the 14 Defendant and duly sworn, was taken in the above styled 15 and numbered cause on Wednesday, August 25, 2021, from 16 10:00 a.m. to 1:38 p.m., before SARA BIELAMOWICZ, CSR, 17 RPR, in and for the State of Texas, reported by 18 computerized stenotype machine via Zoom Videoconferencing. 19 The witness is located at his residence in San Francisco, 20 California, pursuant to the Federal Rules of Civil 21 Procedure and any provisions stated on the record herein. 22 23 24 25	
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1	<b>A P P E A R A N C E S</b>	
2	<b>FOR THE PLAINTIFF:</b> 3 Mr. David Low KOTCHEN & LOW, LLP 4 1745 Kalorama Road, NW, Suite 101 Washington, D.C. 20009 5 202.471.1995 Dlow@kotchen.com 6 7	
8	<b>FOR THE DEFENDANT:</b> Mr. Allan G. King Ms. Analiza Rodriguez 9 LITTLER MENDELSON, P.C. 1301 McKinney Street, Suite 1900 10 Houston, Texas 77010 713.951.9400 11 Agking@littler.com 12	
13	<b>VIDEOGRAPHER:</b> MR. AVERY GROSS - LEXITAS 14 15 16 17 18 19 20 21 22 23 24 25	
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19	REPORTER'S NOTE:	
20	All quotations from exhibits are reflected in the manner	
21	in which they were read into the record and do not	
22	necessarily denote an exact quote from the document.	
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<p>1 DAVID NEUMARK, PH.D., 2 having been duly sworn, testified as follows: 3 EXAMINATION 4 BY MR. KING: 5 Q. Dr. Neumark, my name is Allan King. I am an 6 attorney with the law firm of Littler Mendelson, and I 7 represent the defendant in this case, Wipro Limited, and 8 we're here to take your deposition in that matter. 9 Is that your understanding as well? 10 A. Yes. 11 Q. And I know you've been deposed in the past, so 12 you're familiar with the procedure, but still, if I ask a 13 question that you don't understand, will you please ask me 14 to repeat it? 15 A. Yes. 16 Q. And if you don't do that, will it be agreeable 17 that I can assume that you've understood the question? 18 A. Yes. 19 Q. And if you need a break, will you please let us 20 know but not while a question is pending? 21 A. Sure. 22 Q. You provided a report in this case dated 23 August 17, 2021. Is that correct? 24 A. Yes. I -- I printed out a copy of it here. It's 25 the only thing I have just in case --</p>	<p>Page 5 1 that idea. 2 MR. RODRIGUEZ: I can do both if that's 3 acceptable or just send it to the witness. What's the -- 4 what's the preference? 5 MR. KING: Well, I want Mr. Low to have a 6 copy of it as well. 7 MR. RODRIGUEZ: Okay. So I will send it to 8 everyone. Attaching it now. 9 (Exhibit 1 marked.) 10 A. Mr. King, while we're waiting, I have a few 11 typos, so at some point I would like to give them to you. 12 Q. (BY MR. KING) I'm sorry, did you say "typos"? 13 A. Yeah, things I noticed in reviewing. 14 MR. KING: Mr. Low, do you have a copy? 15 MR. LOW: I do, thank you. 16 Q. (BY MR. KING) In that case, please turn to the 17 last couple of pages which is Appendix E where you list 18 your expert work in the last four years. 19 A. I am there. 20 MR. LOW: Do you know what page number that 21 is? 22 MR. KING: Yes, it's page 65. 23 Q. (BY MR. KING) And, Dr. Neumark, I would like to 24 go through a couple of the cases you identify. 25 A. Ok.</p>
<p>1 Q. Okay. Well -- 2 A. -- in case that's easier. 3 Q. Okay. When you held it up, it was a little thin. 4 Do you have the appendices with you as well? 5 A. I don't have it all -- it doesn't have the title 6 page, and I cut it off at my CV because I didn't 7 actually -- I didn't have to review my CV. 8 Q. Let's introduce this report into evidence if you 9 will. 10 MR. KING: And Ms. Rodriguez has a copy that 11 she can pass to the court reporter. 12 MR. RODRIGUEZ: Sara, I will be sending it 13 through the chat. 14 COURT REPORTER: If you don't mind, I use a 15 separate computer. Can you just email me all the exhibits 16 at the end? That would be easier. 17 MR. KING: Well, then we need a way to share 18 it with the witness. 19 MS. RODRIGUEZ: I can use share screen. 20 THE WITNESS: I can open it. Oh, you can do 21 that or the chat? I'd rather you send it in the chat, and 22 I can open it in a separate screen. Otherwise -- well, 23 then I can page through it freely, but however you want to 24 do it. 25 MR. KING: No, that's a good idea. I like</p>	<p>Page 6 Page 8 1 Q. And I'd like to start with Koehler versus Infosys 2 Technologies. Do you see that? 3 A. I do. 4 Q. Okay. And is that a case in which you've been 5 retained by the Kotchen &amp; Low firm? 6 A. Correct. 7 Q. And you offered an opinion in that case regarding 8 the treatment of non-South Asian employees? 9 A. Yes. 10 Q. There's another case called Heldt versus Tata 11 Consultancy. Is that a case in which you were retained by 12 the Kotchen &amp; Low law firm? 13 A. Yes. 14 Q. And in that case you offered an opinion regarding 15 the treatment of non-South Asian employees and applicants? 16 A. I -- I -- I don't recall what we do on 17 applicants. 18 Q. Okay. 19 A. I didn't -- I didn't review it for this case. 20 Employment, yes. I refer here to hiring and termination, 21 so that's -- the year is correct, that's correct, but I 22 don't remember the details. It was a while ago. 23 Q. Okay. Thank you. 24 Do you know of a case called Grant versus 25 Tech Mahindra?</p>

<p>1   <b>A. No.</b></p> <p>2   Q. Okay. Do you know of a case called Hanloser 3 versus ETO Technologies?</p> <p>4   <b>A. Yes.</b></p> <p>5   Q. You appeared as an expert witness in that case, 6 didn't you?</p> <p>7   <b>A. I filed a report. I believe that's the last 8 thing I did. So the answer might be no as an expert 9 witness, but I don't know if that's --</b></p> <p>10   Q. Okay.</p> <p>11   <b>A. I don't know the jargon.</b></p> <p>12   Q. Yeah. So maybe what I ought to ask about the 13 criteria you used in determining whether to list a case in 14 which you served as -- as an expert witness.</p> <p>15   <b>A. Right. So -- so my understanding of what is -- 16 what is asked for, I don't know if required is too strong 17 a word, is --</b></p> <p>18   Q. Uh-huh.</p> <p>19   <b>A. -- deposed and/or did I testify.</b></p> <p>20   Q. So you may have submitted more reports, for 21 example, than -- scratch that.</p> <p>22         You have been hired and engaged in more 23 cases than what would appear in Appendix E because you may 24 only have submitted a report in those cases.</p> <p>25   <b>A. Or -- or -- or more -- well, I mean, that --</b></p>	<p>Page 9</p> <p>1   <b>A. Yes.</b></p> <p>2   Q. Have you been engaged in a cases called Myerson 3 versus Larsen Toubro Infotech?</p> <p>4   <b>A. No.</b></p> <p>5   Q. Have you ever been engaged in a case on behalf of 6 an employer that was facing a charge of discrimination?</p> <p>7   <b>A. Let me -- I'm thinking what I can say. Engaged? 8 No.</b></p> <p>9   Q. Have you ever provided a report in a case where 10 non-South Asians were suing over employment discrimination 11 in which you concluded there was no evidence of 12 discrimination?</p> <p>13   <b>A. No, I've never -- I've never -- never been 14 engaged in such a case, never -- never seen evidence 15 pointing in that direction.</b></p> <p>16   Q. Have you read the plaintiffs' motion for class 17 certification in this case?</p> <p>18   <b>A. The one just filed?</b></p> <p>19   Q. Yes.</p> <p>20   <b>A. Yes.</b></p> <p>21   Q. Did you make any corrections or changes to the 22 draft you reviewed?</p> <p>23   <b>A. I didn't review a draft. I saw only the final 24 version. Let me close my door, please. One second.</b></p> <p>25   Q. Sure.</p>	<p>Page 11</p>
<p>1   <b>that's not -- that's correct. It's -- that's not that 2 common, although my recollection is HCL, that is the case. 3 And of course in other cases, I'm in a much more 4 preliminary stage where nothing's even been submitted, but 5 I'm not even sure I'm supposed to reveal those anyways 6 until a report is filed.</b></p> <p>7   Q. Okay. In the -- I'm sorry, I thought I heard 8 someone speak.</p> <p>9         In the HCL Technologies case, you were 10 engaged by Kotchen &amp; Low?</p> <p>11   <b>A. Correct.</b></p> <p>12   Q. Have you been engaged in the Palmer versus 13 Cognizant case?</p> <p>14   <b>A. I -- I actually don't -- I am engaged in the 15 Cognizant case. I actually don't recall the plaintiff's 16 name, but -- comes -- to me --</b></p> <p>17         (Audio distortion.)</p> <p>18   Q. Were you engaged by Kotchen &amp; Low in the 19 Cognizant case?</p> <p>20   <b>A. Yes.</b></p> <p>21   Q. Did you submit a report in that case?</p> <p>22   <b>A. No.</b></p> <p>23   Q. And does that case concern the treatment of 24 non-South Asian employees relative to South Asian 25 employees?</p>	<p>Page 10</p> <p>1   <b>Turning back to your report, is there any 2 work that you did that analyzes the employment or hiring 3 experience of non-Indian employees as distinct from 4 non-South Asians?</b></p> <p>5   <b>A. I didn't distinguish.</b></p> <p>6   Q. Have you done any work in connection with this 7 case that assesses whether Indians are a preferred group 8 of employees relative to others?</p> <p>9   <b>A. I'm sorry, is that -- was it -- was the previous 10 question about this case or a general question?</b></p> <p>11   Q. Yeah, this is -- talk about this case.</p> <p>12   <b>A. I haven't looked at the difference between those 13 two questions. Sorry.</b></p> <p>14         MR. KING: Okay. Madam Court Reporter, 15 would you mind reading that back.</p> <p>16         (Reporter clarification.)</p> <p>17         (The question was read as follows:</p> <p>18             "Question: Have you done any work in 19 connection with this case that assesses whether Indians 20 are a preferred group of employees relative to others?")</p> <p>21   <b>A. So what I meant, Mr. King, when you said relative 22 to others -- the previous question was Indians versus 23 non-South Asians.</b></p> <p>24         So I'm trying to figure out if you are 25 asking me the same question or more general others.</p>	<p>Page 12</p>

<p>1 Q. (BY MR. KING) Let me repeat.</p> <p><b>2 A. Sure.</b></p> <p>3 Q. Have you done an analysis where you assessed 4 whether Indians are a preferred group of employees 5 relative to those who are not Indians?</p> <p><b>6 A. I -- I have not studied Indians broken out from 7 other South Asians in any way because -- mainly because of 8 data limitations.</b></p> <p>9 Q. Okay. All right. If you recall from the motion 10 for class certification, there's often a reference being 11 made to South Asians/Indians. Did you notice that?</p> <p><b>12 A. I -- I didn't, but it wouldn't surprise me 13 because, you know -- so when I said there's data 14 limitations, that has to do with the name matching. 15 There's not a distinction hard and fast that I can draw 16 between Indian and South Asian names.</b></p> <p><b>17 The nationality data for the Visa workers 18 would indicate that, and I don't recall. I may have 19 looked at that. I don't recall, but it wouldn't surprise 20 me if the over -- if most of the South Asians are Indians.</b></p> <p><b>21 So --</b></p> <p>22 Q. Right.</p> <p><b>23 A. -- may be using -- because it's essentially the 24 same thing. It's virtually the same thing.</b></p> <p>25 Q. In your work it's identical, isn't it, because</p>	<p>Page 13</p> <p>1 Q. Right. Have you done any analysis of employees 2 who work for Wipro but were not within the Wipro 3 Technologies division?</p> <p><b>4 A. Not -- not directly, but implicitly one can back 5 out the numbers from the two tables.</b></p> <p>6 Q. Right. Have you done that?</p> <p><b>7 A. No.</b></p> <p>8 Q. Have you reached any conclusions about the 9 treatment of employees who work for Wipro Limited but not 10 within Wipro Technologies?</p> <p><b>11 A. Not directly, no.</b></p> <p>12 Q. You mean not independently of others who work for 13 Wipro Technologies?</p> <p><b>14 A. I -- I have not done or reported analyses that 15 look only at the Wipro but non-Wipro Technologies 16 employees.</b></p> <p>17 Q. So as we sit here there is no way to know whether 18 results reported for Wipro Limited employees simply 19 reflect the treatment of employees within the Wipro 20 Technologies division?</p> <p><b>21 A. No, that's not correct.</b></p> <p>22 Q. How would -- okay. No. I interrupted you, so 23 please continue.</p> <p><b>24 A. I didn't know if you wanted to ask a follow up.</b></p> <p><b>25 Because -- because I haven't -- I haven't --</b></p>	<p>Page 15</p>
<p>1 there is no distinction being made between which 2 South Asian country you originate from, correct?</p> <p><b>3 A. There's no -- in my work there's no distinction 4 being made.</b></p> <p>5 Q. Right. Have you done any analysis of the 6 treatment of South Asians who are not Indian relative to 7 others in the -- employees of Wipro?</p> <p><b>8 A. I mean, they're -- I mean, apart from schedule, 9 yes, but not separately. They're -- they're in the --</b></p> <p>10 Q. Yes.</p> <p><b>11 A. They're -- they're in the group but not 12 acceptable. I did not -- have not broken out Indians from 13 other South Asians.</b></p> <p>14 Q. Thank you.</p> <p>15 You also did a comparison between the 16 treatment of employees within Wipro versus the treatment 17 of employees within Wipro Technologies, correct?</p> <p><b>18 A. Yes.</b></p> <p>19 Q. So just to set the stage, so you did analyses of 20 all Wipro employees, and you've done other analyses of 21 employees of Wipro Technologies?</p> <p><b>22 A. There -- there was a limited set of tables 23 that -- that essentially replicates some of the tables for 24 all of Wipro employees, just for Wipro Technologies 25 employees.</b></p>	<p>Page 14</p>	<p>Page 16</p> <p>1 I mean, the numbers are in the table, so if I look at, you 2 know, number of let's say -- you know, I have the shares, 3 let's say for example in -- in table -- from memory, I 4 think -- I think Table 2, but the table of, let's say, 5 hiring by band for Wipro overall and hiring by band Wipro 6 Technologies, sitting here -- is what you mean sitting 7 here is could I get out my calculator or spreadsheet and 8 calculate the difference between those.</p> <p>9 Yes, I would know -- I would know exactly wt 10 the numbers were for Wipro tech- -- excuse me, for 11 Wipro excluding Wipro Technologies, so sitting here today, 12 there is a way to know that, yes.</p> <p>13 I just haven't reported it, and I haven't -- 14 I couldn't -- I could -- I could do shares with a 15 calculator. I can't -- I couldn't -- I would have to take 16 a little more work to do the physical test.</p> <p>17 Q. I don't mean to give you any more work, but if we 18 look within the four corners of your report, there's not 19 an analysis pertaining to solely Wipro Limited employees 20 who are not within the Wipro Technologies division?</p> <p><b>21 A. There's not -- there's not an analysis in my 22 report that breaks out that subset, correct.</b></p> <p>23 Q. Could you agree with me that non-South Asians 24 constitute a significant share of the world's population?</p> <p><b>25 A. Yes.</b></p>

<p>1 Q. Obviously South Asia is large, but it doesn't 2 encompass the world.</p> <p><b>3 A. That's correct.</b></p> <p>4 Q. And if we focus only on non-South Asians, we 5 would know that they differ in terms of where they reside, 6 their religion, their race, et cetera, correct?</p> <p>7 A. Well, they will differ in terms of where they 8 reside. I'm not an expert, but I know there's multiple 9 religions in India, and -- but -- well, if you really want 10 to get into race, we can, but I -- I think they're all the 11 same race, but that's a -- I'm not sure we need to parse.</p> <p>12 Q. Right. So my next question is whether you 13 performed any analyses with respect to non-South Asians 14 that distinguishes in any way based upon the nationality 15 or ethnicity of a group of non-South Asians?</p> <p><b>16 A. Sorry, can you -- can you -- can you repeat the 17 question?</b></p> <p>18 Q. Yeah, let me break it down.</p> <p><b>19 A. Sure.</b></p> <p>20 Q. Non-South Asians consist of persons of various 21 nationalities, correct?</p> <p><b>22 A. Correct.</b></p> <p>23 Q. Okay. Have you done any analyses of how those 24 employees fair relative to South Asians?</p> <p><b>25 A. So you're asking me among -- I mean, you asked me</b></p>	<p>Page 17</p> <p>1 their nationality, correct?</p> <p><b>2 A. Yes.</b></p> <p>3 Q. Okay. Did you do any analyses that is unique to 4 any of those nationalities in the non-South Asian bucket?</p> <p><b>5 A. There's nothing in the report. There's -- very 6 early on -- and I -- I -- I can't point to any exhibit</b></p> <p><b>7 because this is just sort of early -- early -- very early 8 stage, looking at the data, trying to see what I have, 9 et cetera, you know.</b></p> <p><b>10 The people who are either non-South Asian or 11 non-American, just talking nationality here, are --</b></p> <p><b>12 there's very few of them. There's a smattering from this 13 country and that. So -- but I didn't do anything more 14 than that.</b></p> <p>15 Q. Right. You didn't compare their hire rates or 16 their termination rates or their promotion rates to 17 South Asians?</p> <p><b>18 A. You mean like French -- like the French to the 19 South Asians?</b></p> <p>20 Q. Yeah, yeah. And the answer would be the same for 21 every other nationality that's represented within Wipro, 22 apart from the South Asians?</p> <p><b>23 A. The answer would be the same. My -- my strong 24 supposition based on a little -- a little -- early look of 25 the data, but again, I don't remember all the details,</b></p>
<p><b>1 this question -- this sort of funny question about the 2 world population, which is not at issue here. The issue 3 is the Wipro -- the Wipro workforce. You're asking me if 4 I broke out the Wipro US workforce by, let's say, black, 5 white and Latino?</b></p> <p>6 Q. That's one possibility. Yes. Have you done 7 that?</p> <p><b>8 A. I have not.</b></p> <p>9 Q. Have you done it by the nationality of the 10 non-South Asian employees of Wipro?</p> <p><b>11 A. The non-US nationality?</b></p> <p>12 Q. No.</p> <p><b>13 A. You mean the nationality of other Visa workers?</b></p> <p>14 Q. No. Let's -- let's start over, okay?</p> <p><b>15 A. Okay.</b></p> <p>16 Q. So we can divide all Wipro employees into the 17 groups of South Asian and non-South Asian, correct?</p> <p><b>18 A. Based on nationality, yes. I mean, in the -- in 19 the data, yes.</b></p> <p>20 Q. Right. Everybody belongs in one bucket or the 21 other?</p> <p><b>22 A. They -- they don't have it recorded but, yes, 23 most of them do.</b></p> <p>24 Q. Okay. Let's look at the non-South Asian bucket. 25 Employees in the non-South Asian bucket differ in terms of</p>	<p>Page 18</p> <p><b>1 would be -- those would be very small groups, except for 2 the Americans.</b></p> <p>3 Q. Okay. In terms of the treatment of equally small 4 groups though, you have no analysis in your report 5 regarding how they fared, correct?</p> <p><b>6 A. That's right.</b></p> <p>7 Q. In defining South Asian, the people that you 8 determine to be South Asian are defined in terms of their 9 nationality, number 1, and the likeness of their names to 10 others with those nationalities?</p> <p><b>11 A. Correct.</b></p> <p>12 Q. So everything you've done to classify employees 13 begins with a cat- -- categorization according to 14 nationality?</p> <p><b>15 A. That's right. The way the -- not everything. A 16 large part of my -- let's start with nationality, and I --</b></p> <p><b>17 and that generates a list of names of people from 18 South Asian countries, and I list those countries in the 19 report.</b></p> <p><b>20 I also though recall used names from a 21 couple other sources. So -- so matching those to names of 22 Wipro employees and classifying them does not require 23 having the Wipro nationality data.</b></p> <p>24 Q. Right. Although they're all methods that are 25 nationality based rather than ethnic -- ethnically based</p>

<p>1 or racially based?</p> <p>2 A. Yeah. I think -- I'm not quite sure I agree with</p> <p>3 that question because -- with that premise because that --</p> <p>4 I mean, one of the studies uses Social Security records --</p> <p>5 I mean, it's for America, right?</p> <p>6 Q. Uh-huh.</p> <p>7 A. And I -- if I have -- if I'm recalling correctly,</p> <p>8 where your parents were born. So if my parents were born</p> <p>9 in India and I live here, am I -- I mean, that's -- I</p> <p>10 mean, again -- we can argue about terms forever. I think</p> <p>11 that that becomes my ethnicity, not my nationality, but,</p> <p>12 you know, you can interpret it how you want.</p> <p>13 Q. Yeah. As a -- as a literal matter, it is your</p> <p>14 national origin, correct?</p> <p>15 A. If my parents were born somewhere else and I was</p> <p>16 born here, I think I'm an American of India ethnicity. I</p> <p>17 mean, I don't know. If my parents were born in India --</p> <p>18 if my parents immigrated from India and I'm born here? I</p> <p>19 don't know. I'd -- I would say my parents' national</p> <p>20 origin is Indian, and mine is American, but I'm of India</p> <p>21 ethnicity, which is more of an identification issue than</p> <p>22 a -- I'm not an expert in, you know, these -- you know,</p> <p>23 this -- ask an anthropologist.</p> <p>24 Q. Right. Let's move on. Please turn to page 1 of</p> <p>25 your report.</p>	<p>Page 21</p> <p>1 average earnings of -- of men and women in -- in a -- in a</p> <p>2 big US dataset, let's say. There's no reason to think</p> <p>3 that that gap is necessarily all discrimination even</p> <p>4 though some people incorrectly interpret it that way,</p> <p>5 right?</p> <p>6 There could be differences in how much</p> <p>7 people work, how many hours, so maybe we're looking at</p> <p>8 annual earnings and not adjusting for that. There could</p> <p>9 be differences in how much education people have.</p> <p>10 That's actually something that would make it</p> <p>11 bigger because women these days are more educated than</p> <p>12 men. There could -- you know, there's -- there's a</p> <p>13 variety of things that could explain it. Some could make</p> <p>14 it bigger, some could make it smaller.</p> <p>15 And the context of that particular question,</p> <p>16 when you account for other factors, I think most people</p> <p>17 would agree the gap -- the gap -- the overall gap is --</p> <p>18 you know, overstates a discriminatory gap and the gap</p> <p>19 attributable to discrimination is smaller than that raw</p> <p>20 gap would indicate.</p> <p>21 That doesn't necessarily -- that's -- that's</p> <p>22 one specific example. It may or may not apply to other</p> <p>23 context, other firms, et cetera.</p> <p>24 Q. Sure. So in your example, the failure to account</p> <p>25 for what we would call nondiscriminatory reasons could</p>	<p>Page 23</p>
<p>1 A. It is it okay if I use paper?</p> <p>2 Q. Oh, yeah, you can do whatever you'd like. It's</p> <p>3 the one that has "Introduction" at the top.</p> <p>4 A. Yes.</p> <p>5 Q. So we're beginning in the same place.</p> <p>6 A. Yeah.</p> <p>7 Q. I'd like you to look at the last sentence of the</p> <p>8 first paragraph.</p> <p>9 A. Okay.</p> <p>10 Q. And you say "The goal of much of this</p> <p>11 research" -- meaning the research you cite above -- "is to</p> <p>12 better understand the role of discrimination versus other</p> <p>13 explanations of differences in labor market outcomes by</p> <p>14 sex, age, race, or ethnicity."</p> <p>15 Did I read that right?</p> <p>16 A. Yes.</p> <p>17 Q. Okay. And what do you mean by that?</p> <p>18 A. What I mean by that is -- is that -- let's say a</p> <p>19 concrete example, and you can ask me more general if you</p> <p>20 want. You know, we --</p> <p>21 Q. Sure.</p> <p>22 A. We often hear that women are 69 or 70 or \$0.72 on</p> <p>23 the dollar, whatever -- whatever the current number is.</p> <p>24 Q. Yes.</p> <p>25 A. That's a fact, right? If you -- if you look at</p>	<p>Page 22</p> <p>1 lead to a biased conclusion about the magnitude of this</p> <p>2 gender pay gap that you just described?</p> <p>3 A. Yes.</p> <p>4 Q. As an economist, you would want to take into</p> <p>5 account these nondiscriminatory reasons before concluding</p> <p>6 that the gap between men and women is X percent or perhaps</p> <p>7 nonexistent?</p> <p>8 A. If I was -- if I was -- if I was doing an</p> <p>9 academic research with the goal of a paper -- my papers</p> <p>10 let's say because I've done a lot of them, I try to</p> <p>11 research a definitive conclusion based on the data I have.</p> <p>12 I would want to -- I would want to</p> <p>13 account -- you have to be careful, you don't want to</p> <p>14 account for things that potentially reflect</p> <p>15 discrimination, like a bias performance rating or</p> <p>16 something like that. But you'd want to try to account for</p> <p>17 things that appropriately controlled for other sources of</p> <p>18 the gap analysis.</p> <p>19 Q. The failure to include these other considerations</p> <p>20 that you just described is often referred to as -- this</p> <p>21 constellation of facts that they're not considered may be</p> <p>22 considered what's called omitted variables?</p> <p>23 MR. LOW: Object to the misstated testimony.</p> <p>24 Go ahead.</p> <p>25 Q. (BY MR. KING) Are you comfortable with that</p>	<p>Page 24</p>

<p>1 characterization?</p> <p>2 A. Yes. I mean, that -- that's -- yes, except --</p> <p>3 except it -- you know, it's a more -- it -- it -- there's</p> <p>4 a more nuance -- there's a more nuance set of</p> <p>5 considerations that have to be given as to, you know, what</p> <p>6 should be -- you know, there may be some things you omit</p> <p>7 because they should be omitted, like something that</p> <p>8 self-reflects discrimination.</p> <p>9 I mean, for -- let me give you an example in</p> <p>10 this context. So you might say, Well, you know, if I</p> <p>11 control for the occupations men and women work in -- and</p> <p>12 now I'm talking about a general dataset, not -- you know,</p> <p>13 not a company dataset like we're talking about here.</p> <p>14 Women on average working lower paying</p> <p>15 occupations, so I've controlled for occupation, the gender</p> <p>16 gap gets smaller. But some believe that there is</p> <p>17 discrimination against women into hiring into higher paid</p> <p>18 occupations.</p> <p>19 So literally occupation is omitted from the</p> <p>20 wage progression if you don't include it because that's --</p> <p>21 you know, it's an omitted variable, but arguably you</p> <p>22 don't -- you don't want to include it because then you're</p> <p>23 essentially what we call over-controlling. You're --</p> <p>24 you're essentially controlling for the discrimination via</p> <p>25 occupation even though it contributes to the pay gap.</p>	Page 25	Page 27
<p>1 Q. Is it correct that what and -- how it's like</p> <p>2 yourself decides should be included in the model or</p> <p>3 described as the model specification?</p> <p>4 A. Yes.</p> <p>5 Q. And if it -- there is a consideration that is</p> <p>6 included in this specification but is unavailable or for</p> <p>7 some reason is absent from the model, would that be</p> <p>8 considered a specification error?</p> <p>9 A. So now you're drawing the distinction between</p> <p>10 what you generically called omitted variables and</p> <p>11 something that I think should be in the model, but I don't</p> <p>12 have data.</p> <p>13 Q. That's exactly right.</p> <p>14 A. Yeah. I mean, I can't -- I can't -- yeah, I</p> <p>15 can't -- I can't include things I don't have data on. I</p> <p>16 should point out that -- I should take two things to</p> <p>17 clarify the outset you may -- you know, this may be where</p> <p>18 you're going.</p> <p>19 First of all, there is a difference -- I</p> <p>20 mean, you know, you pulled out page 1 of my report which</p> <p>21 is discussion of my academic research. There's -- there's</p> <p>22 an important distinction between what I say here about my</p> <p>23 research and what I'm doing at this stage of this case,</p> <p>24 which is documenting disparities.</p> <p>25 And my understanding is -- I'm not a lawyer,</p>	Page 26	Page 28
<p>1 but my understanding is there -- there -- there -- there</p> <p>2 are more rounds at which nondiscriminatory explanation may</p> <p>3 or may not be preferred by the defendant, you know,</p> <p>4 presumably based on the same data I have or I guess that's</p> <p>5 not allowed, and then I'll you know -- I will consider,</p> <p>6 you know -- consider that evidence on rebuttal.</p> <p>7 It's also the case that, you know -- my</p> <p>8 understanding is that -- that some of the -- some of the</p> <p>9 variables you're referring to that might, you know -- that</p> <p>10 may be -- if -- if I were, you know, not just documenting</p> <p>11 disparities at the outset, but -- but considering possible</p> <p>12 other explanations, which I haven't done in this report,</p> <p>13 were things that Wipro declined to provide data on, such</p> <p>14 as performance appraisals.</p> <p>15 Now, again, would I have taken performance</p> <p>16 appraisals at -- at face value? Maybe, maybe not, but</p> <p>17 without getting into that, these data simply weren't made</p> <p>18 available.</p> <p>19 Q. So it's your view that you did not have access to</p> <p>20 data regarding performance?</p> <p>21 A. Yes.</p> <p>22 Q. If you did, you would have considered it.</p> <p>23 A. I would have considered it. That's a general</p> <p>24 statement. I'm -- I'm -- I'm not committing to what I</p> <p>25 would have done with it.</p> <p>1 Q. Fair enough.</p> <p>2 Did you form any conclusions about what you</p> <p>3 might call the locus of decision making. In other words,</p> <p>4 where or who at Wipro is responsible for making hiring</p> <p>5 decisions. Do you know?</p> <p>6 A. I was not -- I -- I was not asked to consider</p> <p>7 that, and I didn't. I didn't form any opinions about it</p> <p>8 because of that.</p> <p>9 Q. Same question with respect to promotions. Do you</p> <p>10 know who decides whether to promote a given employee?</p> <p>11 A. No. I was -- I was asked here to perform the</p> <p>12 statistical analysis of -- of the -- the outcome, not --</p> <p>13 not to delve into what I could or couldn't learn, and --</p> <p>14 and you can't from the data I have about the questions of</p> <p>15 who's making the decisions and how -- the internal</p> <p>16 operations of the company.</p> <p>17 Q. Okay. Same thing with terminations. Do you know</p> <p>18 who makes termination decisions?</p> <p>19 A. No.</p> <p>20 Q. But you reached conclusions regarding the</p> <p>21 presence of discrimination, and those are meant to apply</p> <p>22 throughout the company, correct?</p> <p>23 A. I reached conclusions that the data are -- I --</p> <p>24 I -- I'm pretty sure I say every time consistent or</p> <p>25 strongly consistent with discrimination, and that's a</p>	Page 26	Page 28

1 statement about the statistics. 2 Q. Right. But it's -- it's a statistic that applies 3 company wide and is not specific to any division within 4 the company, apart from Wipro Technologies, or any 5 location within the company?  6 A. There's -- there's nothing in my analysis by 7 location or division except for the -- the one distinction 8 you drew, if you want to call Wipro Technologies a 9 division. There is -- there are other -- there are other 10 dimensions of this segregation like Career Band.  11 Q. Yeah.  12 A. It -- it doesn't solely come from a pooled 13 analysis of either Wipro overall or Wipro Technologies 14 overall.  15 Q. So if my interest was in learning how pervasive 16 your finding of discrimination or consistency with 17 discrimination is and I wanted to know, does it pervade 18 all locations, your report would not provide guidance with 19 respect to that?  20 A. I don't have -- no, there's no direct evidence of 21 that, and it's important to understand though that, you 22 know, when you test the statistical significance of an 23 estimate, right, and something is strongly significant, I 24 mean, that is telling you something about, you know -- 25 that it's -- it doesn't go -- it doesn't go in one	Page 29	Page 31
1 direction in half the company and the other direction in 2 the other half of the company.  3 I mean, that is -- you know, I -- I often 4 see experts say, Oh, you know, there's -- defense experts 5 I should say. There's variations you haven't explained, 6 and therefore, you know, this can't -- this can't tell the 7 whole story, and my answer is no.  8 Then the statistical test doesn't -- it 9 doesn't -- it doesn't -- it doesn't literally do what you 10 say, run a model location by location, division by 11 division or something, but it does speak -- it does 12 address the commonality of the evidence in that there's a 13 strong statistical pattern.  14 Q. Well, there's a strong statistical difference 15 between the average treatment of South Asians and the 16 average treatment of non-South Asians, correct?  17 A. Correct. But it -- but it let's say -- let's 18 take -- well, let's take a term -- just to name it -- 19 let's take involuntary termination.  20 If, in fact, the -- the difference between 21 involuntary termination rates between South Asians and 22 non-South Asians varied a lot by location and varied a lot 23 by division, and in some divisions, it went one way that 24 is favoring non-South Asians and other divisions it went 25 the other way and the same by location, you wouldn't get a	Page 30	Page 32

<p>1 company and you leave the company, and while you're at the 2 company, you move up or not, and those are pretty much the 3 way -- I mean, this is not a pay case.</p> <p>4 So aside from pay, those are pretty much the 5 things we study and, you know -- and -- and I mean, there 6 was certainly guidance from the attorneys about what 7 questions were of interest.</p> <p>8 How I -- how I study the questions are, of 9 course, up to me. I don't -- I don't make up the 10 questions.</p> <p>11 Q. So you were asked to look at overall employment 12 as one issue?</p> <p>13 A. Yeah.</p> <p>14 Q. Okay. Did you raise an issue or raise a question 15 rather as to whether this is to be done on an aggregated 16 basis or whether you were to determine the pervasiveness 17 you might say across locations or business units with 18 respect to employment, promotions or termination?</p> <p>19 A. I did not raise that question at this point.</p> <p>20 Q. Okay. Okay. You also say as one of your 21 questions is whether the data is consistent with 22 discrimination. You see that?</p> <p>23 A. I do.</p> <p>24 Q. Okay. Did you take it upon yourself to determine 25 whether the data were also consistent with</p>	<p>Page 33</p> <p>1 I've never -- I've never -- I've never seen data where, 2 you know, some control hurdles -- someone might come up 3 with that are going to explain disparities like these, but 4 I've not done it directly, no.</p> <p>5 Q. In subparagraph B under -- looking at 4(b), 6 you're asking whether "the data on Wipro's hiring, 7 promotions, and terminations within certain Career Bands 8 are consistent with discrimination in favor of 9 South Asians and against non-South Asians?"</p> <p>10 Is everything you said with respect to 4a 11 also true about 4(b), that at this juncture, you did 12 formally consider alternative hypotheses to 13 discrimination?</p> <p>14 A. Yes, but I -- I guess I would add an important 15 point, which is that, you know, in a sense looking 16 Career Band by Career Band is in -- is in a sense like 17 introducing a control variable.</p> <p>18 For example -- I'll give you an example. If 19 I was studying an overall promotions difference, right? 20 So suppose -- suppose -- you know, suppose I -- the 21 overall data on whether one is promoted or not, I might 22 find, let's say, you know -- I'll just give you a 23 hypothetical: No promotion difference between 24 South Asians and non-South Asians, not what I find, but 25 just to give you a hypothetical.</p>
<p>1 nondiscriminatory explanations?</p> <p>2 A. As I indicated my -- my -- my -- my goal at this 3 point -- I mean, my -- my main goal was to simply document 4 whether there were disparities in outcomes, understanding 5 that there may be future changes on what else could 6 explain it.</p> <p>7 Had I had rich data with which to explore 8 that, I would have -- I would have -- I would have at 9 least pushed to do that or asked to do it. They might 10 have said don't do it at this stage anyways, but it wasn't 11 relevant.</p> <p>12 But, yeah -- you know, but I 13 have certainly -- certainly my research always in other 14 reports, depending on the data I have available, you 15 know -- either at this point or at a later point certainly 16 looked at the extent to which I could decisively rule out 17 other explanations.</p> <p>18 And that's why I use the language I use 19 here, to make clear that I have, you know -- that that's 20 where I am right now. I -- I've documented disparities. 21 Disparities are consistent with discrimination.</p> <p>22 Q. But at this juncture, you have not made efforts 23 to rule out other explanations for the same disparities?</p> <p>24 A. I have not done anything directly. I will tell 25 you these disparities are huge, and in my vast experience,</p>	<p>Page 34</p> <p>Page 36</p> <p>1 Q. Uh-huh.</p> <p>2 A. Now, I might -- one thing I might do is add into 3 the model a control for which band I would -- and talking 4 about a hierachal band here -- which band you're in, and 5 the reason I would do that is because typically in an 6 organization, promotion rates are lower at lower levels of 7 the structure than at higher levels of the structures.</p> <p>8 So if south -- if non-South Asians are lower 9 level and South Asians are higher levels, which is in fact 10 the case here, the -- you know, within band promotion rate 11 would be a lot higher for South Asians, but if you looked 12 at the aggregate, you could mis-seemingly get no evidence 13 of higher promotions for South Asians.</p> <p>14 This aggregating by Career Band is which 15 is sometimes a richer, more flexible way to -- to capture 16 that than -- than just running a single promotion model 17 with a control for which band you're in.</p> <p>18 Q. You're aggregating along that dimension of 19 Career Band. You haven't disaggregated the data in any 20 other --</p> <p>21 THE REPORTER: Mr. King, can you repeat that 22 question? You cut out.</p> <p>23 MR. KING: Yeah, I'm -- I'm really sorry 24 about the communications issue.</p> <p>25 Q. (BY MR. KING) Let me ask the question again.</p>

<p style="text-align: right;">Page 37</p> <p>1 We're still looking at section 4(b), and my question is:      2 Apart from considering outcomes by Career Band, you      3 haven't done other analyses to determine the pervasiveness      4 of any of those that you found?</p> <p>5 MR. LOW: Objection, ambiguous.</p> <p>6 <b>A. There are some results by year, although not by</b>  <b>7 year ending, and there are results for Wipro -- overall</b>  <b>8 Wipro Technologies, so those are two different types of</b>  <b>9 disaggregation I report.</b></p> <p>10 Q. (BY MR. KING) Those are the only two?</p> <p>11 <b>A. I think that's correct, yes.</b></p> <p>12 Q. In your summary of findings in paragraph 7, the      13 first sentence says "Wipro's share of employment that is      14 South Asian far exceeds the shares of South Asian in the      15 relevant workforce."</p> <p>16 How did you determine the relevant      17 workforce?</p> <p>18 <b>A. So I -- I -- I take data from the American</b>  <b>19 Community Survey. It's a very large, random sample of the</b>  <b>20 US population workforce, same years that I use Wipro data</b>  <b>21 for. I take data on the industry, as best as I could</b>  <b>22 match it, that Wipro operates in.</b></p> <p>23 And I take -- so I take that subset of the      24 data from ACS. I further take the subset of the same      25 occupation that are representative of Wipro, to the best I</p>	<p style="text-align: right;">Page 39</p> <p>1 actual hires by Wipro of employees of various      2 nationalities to the presence of those nationalities in      3 the relevant US workforce, or would you consider a global      4 labor market to be more appropriate given what you know      5 about Wipro?</p> <p>6 <b>A. We're talking about hiring in the US?</b></p> <p>7 Q. Yes, yes.</p> <p>8 <b>A. I mean, again, this is a -- this is a legal</b>  <b>9 question, I think, what exactly hiring discrimination</b>  <b>10 means when you're bringing in people on Visas from other</b>  <b>11 countries.</b></p> <p>12 I think there's a very reasonable argument      13 to be made that you should be -- you should be doing the      14 comparisons to the US labor market, not the global labor      15 market because that's -- that's the -- that's the hiring      16 scenario.</p> <p>17 Here's -- here's an example: You know,      18 suppose I have an -- an office -- my company has one      19 office, and it's in Boise. And I pick, you know, Boise,      20 Idaho, because I think it's a largely white population.      21 Let's assume that's true. And now I open a second office      22 in Atlanta, which has a very large black population and,      23 you know, highly educated, qualified, a large -- large      24 black professional class, let's focus on that kind of an      25 office.</p>
<p style="text-align: right;">Page 38</p> <p>1 can match those. And that's -- that's when I try -- I'm      2 trying to think of anything else. That's what I treat as      3 the relevant workforce.</p> <p>4 Q. Okay. And the American Community Survey is a      5 survey of employment in the United States, correct?</p> <p>6 <b>A. Sure.</b></p> <p>7 Q. Why would -- what facts cause you to believe that      8 the United States labor market is descriptive of the      9 relevant labor market from which Wipro hires?</p> <p>10 <b>A. Well, I'm -- I'm -- I'm studying Wipro's behavior</b>  <b>11 in the US labor market. I'm not studying the behavior in</b>  <b>12 other countries. So if you -- if the question -- if the</b>  <b>13 question -- this is a legal question perhaps, which I</b>  <b>14 can't opine on.</b></p> <p>15 But my understanding of the question is what      16 are they doing in the US labor market and -- and -- and --      17 and how does that compare to what -- what would -- what is      18 going on in the rest of the US labor market, so called      19 relevant workforce.</p> <p>20 Q. Suppose we are considering the hiring patterns or      21 practices at Wipro. Can we focus on that?</p> <p>22 <b>A. Sure.</b></p> <p>23 Q. Okay. Would it be appropriate to compare the      24 actual hires made by Wipro to -- let me scratch that.</p> <p>25 Would it be appropriate to compare the</p>	<p style="text-align: right;">Page 40</p> <p>1 I open an office, and instead of hiring      2 people from Atlanta, I just keep bringing -- you know,      3 some of whom will be minority, if I'm -- if I'm doing      4 nondiscriminatory hiring, some will be black. I just keep      5 bringing people from Boise, Idaho, to staff that office.</p> <p>6 Would I as a labor economist -- not as a      7 judge -- as a labor economist view that as hiring      8 discrimination? Yeah, I would. And I think that's a good      9 analogy.</p> <p>10 Q. So are you suggesting that the sources from which      11 Wipro hires is itself a reflection of discrimination?</p> <p>12 <b>A. You mean the fact that they could hire Indians</b>  <b>13 when you "say the sources"?</b></p> <p>14 Q. I thought the example you gave was created for a      15 point that an employer who reaches beyond the local labor      16 market could be doing so for discriminatory reasons?</p> <p>17 <b>A. Well, the -- the -- the point of my example is</b>  <b>18 I'm looking at hiring in this new Atlanta office, and that</b>  <b>19 Atlanta hiring -- and in fact I'm just bringing in white</b>  <b>20 people from Boise, that Atlanta hiring -- that office is</b>  <b>21 going to look very white whereas local hiring would</b>  <b>22 have -- would have a higher representation of blacks.</b></p> <p>23 So it's really about -- that's -- that's why      24 I asked you -- it's not so much about the source. It's      25 about, Is my hiring on location, right, reflective of the</p>

<p>1 local labor market? And I -- and that's -- that's the 2 analogy to what I'm doing here. I'm asking is Wipro's 3 hiring -- it's employment, it's not hiring, but is Wipro's 4 hiring in the US comparable or not in terms of South Asian 5 to the local labor market, which I'm defining broadly here 6 as the US labor market, you know, by -- by industry and 7 occupation.</p> <p>8 Q. Right. You recognize that most companies have to 9 select their employees from those who apply for positions?</p> <p>10 A. Well, yes, but companies also engage in a lot of 11 recruiting efforts that shape who applies, and I don't 12 know -- I -- so that matters too.</p> <p>13 Q. Right. Employees have no way to coerce someone 14 who doesn't apply to go to work, right?</p> <p>15 A. There's no way to coerce anyone to work for them, 16 even if they do apply.</p> <p>17 Q. Right. So the group who apply for positions are 18 often referred to as "the applicant flow." Isn't that 19 correct?</p> <p>20 A. That is correct. My -- my point is simply the 21 applicant flow is not, you know, fixed by nature.</p> <p>22 Q. Right.</p> <p>23 A. Right. I can -- I can go look for Indian Visa 24 workers or I can go recruit on American engineering 25 campuses. That's a choice.</p>	<p>Page 41</p> <p>1 about the motion the attorneys are writing. It's not my 2 job, but I did not realize there was not going to be any 3 reference in the claim to the employment differentials, 4 but obviously, I knew that was being shaped by 5 terminations that I was studying.</p> <p>6 Q. Okay. That being true, why did you include a 7 section in your report discussing hiring when you knew 8 that was not part of the case?</p> <p>9 MR. LOW: Objection, misstates his 10 testimony.</p> <p>11 A. I think -- I think that did misstate my 12 testimony. I said I wasn't -- I -- I knew I had no -- I 13 just said I -- I -- I knew I had no direct analysis of 14 hiring out of applications, and I have no -- no analysis 15 like that, and I just said that I wasn't aware that there 16 was not going to be any reference in the motion to hiring, 17 even though it might be drawn somewhat -- an inference 18 might be drawn somewhat indirectly from the employment 19 data.</p> <p>20 MR. KING: Can we take a five-minute break 21 if you don't mind?</p> <p>22 VIDEOGRAPHER: Going off the record at 23 11:05.</p> <p>24 (Recess taken from 11:05 a.m. to 11:16 a.m.)</p> <p>25 THE VIDEOGRAPHER: And we are back on the</p>
<p>1 Q. Right. But you don't know that that kind of 2 selectivity has occurred in this case, do you?</p> <p>3 A. I have -- I have not studied the applicant flow 4 data. As far as I understand, the case isn't even about 5 hiring. It's about promotions and terminations, for which 6 this, you know, has no bearing.</p> <p>7 Q. Yeah. When did you learn that, by the way, that 8 the case is not about hiring?</p> <p>9 A. Well, I knew it was -- I -- I -- I knew it was 10 not directly about hiring because there's no -- as I point 11 out in my report, there's no direct information about 12 hiring out of an applicant pool, and I explain -- I 13 explain why in my report.</p> <p>14 I -- I did not know because I was not 15 involved in, as I mentioned, you know -- in shaping, 16 editing, drafting, commenting on. That's not exactly my 17 role anyway, the motion filed by plaintiffs.</p> <p>18 I thought there, you know -- there might be 19 a discussion of employment per se, which is actually what 20 I can study with my comparison to the ACS data, even 21 though that is not -- you know, the ACS -- I don't see in 22 the ACS data who got hired. Just, you know, as a flow. I 23 see who's working there now.</p> <p>24 So I -- you know, did I -- I might -- I -- I 25 didn't really think about it because I don't really worry</p>	<p>Page 42</p> <p>1 record at 11:16. You may proceed.</p> <p>2 Q. (BY MR. KING) Dr. Neumark, please turn to page 5 3 of your report and look at paragraph 12.</p> <p>4 A. Okay.</p> <p>5 Q. Thanks. And that's where you define what you 6 mean by the relevant labor market. Is that correct?</p> <p>7 A. Yes. I give more detail later, yes.</p> <p>8 Q. Okay. If I were interested in defining the labor 9 market from which hiring typically occurs, this would not 10 necessarily lead to the definition, would it?</p> <p>11 MR. LOW: Objection, vague.</p> <p>12 A. I think you're referring -- I think you're 13 referring directly back to your -- your comment about the 14 applicant pool. So is that -- is that what you're asking 15 me?</p> <p>16 Q. (BY MR. KING) Yes, that's not a bad way to look 17 at it.</p> <p>18 Is this your approximation to what you think 19 the applicant pool would look like under nondiscriminatory 20 circumstances?</p> <p>21 A. Well, let me say -- let me say it this way, and 22 then if I'm not answering your question, I'm sure you will 23 let me know. We -- we sometimes have in a hiring case 24 applicant data to a company and obviously, you know, who 25 got hired and who didn't or maybe who got job offers and</p>

<p>1 who didn't because they may or may not take the job offer.</p> <p>2 If -- if I'm working on such a case before I accept kind of the applicant data -- the applicant data, I do a lot of checks to make sure they're complete, for example, are there hires who show up who weren't in the applicant data, one -- one indication that I don't have all the applicant data, and companies don't always keep great applicant data because those aren't personnel records in the same way that they have to keep records on employees.</p> <p>11 Sometimes those data don't exist at all.</p> <p>12 Sometimes they look very incomplete so they can't be used, and sometimes even you have them and they look complete, you might be concerned about how the applicant pool is shaped, where I recruit, who I choose to recruit, do I go on LinkedIn and look for people with certain ethnicity or whatever.</p> <p>18 In that case or as -- as just to another -- you know, another kind of analysis, you do what's called an external benchmarks analysis, which is what this is, which is trying to say essentially, What is the availability of workers for these types of jobs in the local workforce, and that's -- that's what that is.</p> <p>24 Q. Okay. And why do you restrict this to the local labor -- workforce?</p>	<p>Page 45</p> <p>1 we're -- if we're studying the US as a whole, which is what I'm doing in this analysis, in my -- in my report then it's the -- it's what is the ethnic -- what is the share South Asian, you know, in the industry and occupations in the US labor market.</p> <p>6 If this were an analysis of, you know, hiring at one location or there were only -- there was one location of this company, then the local labor market might be more -- more narrowly geographically defined.</p> <p>10 Q. Please turn to page 7 and paragraph 17.</p> <p>11 A. Okay.</p> <p>12 Q. Have you gotten there? Did you review it?</p> <p>13 A. Yes.</p> <p>14 Q. You acknowledge that you were given a dataset of Wipro applicants, correct?</p> <p>16 A. I believe it was a few datasets, if I'm not mistaken. Yes, data -- data -- I was given data on applicants.</p> <p>19 Q. And you were given the names of those applicants?</p> <p>20 A. Yes.</p> <p>21 Q. All right. And you know the jobs for which they applied.</p> <p>23 A. I -- I -- I don't remember everything that was in the data. That's not written here unless by that you mean job location. What -- what I list here is resume ID,</p>
<p>1 A. By which you mean the US workforce or -- because I'm hiring -- I'm studying hiring -- well, again, it's not hiring directly. I'm studying behavior, employment in the US, and asking how it differs in -- in -- in the industry and occupations in which Wipro operates versus Wipro itself.</p> <p>7 Q. And -- but you know many hires are made of people who are not residing in the US, correct?</p> <p>9 A. I know they bring in Visa workers, and that -- that was the issue who obviously aren't -- well, typically not residing in the US although (audio distortion), but putting that aside, yes, I know there is a flow of new -- there is a flow of new Visa workers into the country to take some of these jobs.</p> <p>15 But as we talked about before, I think, you know, there's a legal issue I can't rule on or I probably shouldn't even opine on, but in my -- in my -- you ask me as a labor economist, you know, what should I be comparing a company's hiring to if they're bringing people into a country or some other definition of a labor market, I would say that labor market. That's at least a reasonable -- a reasonable analysis to do.</p> <p>23 Q. I don't know what you meant by "that labor market." What was "that labor market" in your answer?</p> <p>25 A. Well, if -- if we were -- so if we're -- if</p>	<p>Page 46</p> <p>1 applicant name and job location, but that -- but it starts with a "such as." That's not a comprehensive list, and I don't remember the whole list.</p> <p>4 Q. And what did you mean by "job location"? Is that the geographic location of a job?</p> <p>6 A. I'm not sure. I -- I -- judging by the name, I suspect so, but I didn't review that specific information.</p> <p>8 Q. Okay. And why do you think the data were incomplete?</p> <p>10 MR. LOW: Calls for speculation.</p> <p>11 A. Well, I -- I don't say definitively they weren't complete. I say I have no information on the completeness of this applicant data. That was something I looked at very early in the research, and I honestly don't recall the detail of what I did except -- except for recalling that I -- I was by no means convinced they were complete.</p> <p>17 But I -- but more than that, I don't remember, and I didn't review that -- this, and I indeed haven't looked at for -- you know, since early on when I got the data, which I think was something like a year ago, although that's a guess.</p> <p>22 Q. (BY MR. KING) Okay. So presently you're not sure in what respect the data were incomplete, if any?</p> <p>24 A. Correct.</p> <p>25 Q. You mentioned the data lacked a race of ethnicity</p>

1 of applicants. Do you see that?  2 A. Yes.  3 Q. Is there any reason why you couldn't have gone 4 through the same name matching procedure you describe in 5 your report with respect to the names of applicants?  6 A. I could have. I would -- I would be -- remember 7 though that when I study Wipro employees, I have -- and 8 I -- I document this in the table, I get a lot of 9 information on nationality. I -- I get a lot of 10 identification of South Asians from the nationality data, 11 and then I supplement it with information on the names.  12 Doing a full analysis of the dataset where 13 only use the names would be -- would be, you know -- I 14 could do it. It would be, you know, not quite as reliable 15 let's say.  16 Q. But you elected not to?  17 A. Well, not just for that reason but, yes.  18 Q. Right. You preferred instead to use the ACS 19 database to approximate the group from which hires might 20 occur?  21 A. Well, I -- I want to be clear here. You know, if 22 you go back to paragraph 7, which has a bunch of parts to 23 it, I reach a conclusion about employment, paragraph (a), 24 about promotions, paragraph (b), about involuntary 25 terminations, paragraph (c).	Page 49	Page 51
1 You asked before about when I -- you know, 2 when I did or didn't learn that hiring wasn't included. I 3 mean -- and I -- I clearly was -- a long -- a long time 4 ago because this, you know -- this report didn't change 5 based on what was included in the motion filed by the 6 defendants -- filed by the plaintiffs.  7 I was never pushing a hiring story very hard 8 anyways. In fact, my main -- it wasn't the question 9 asked, but it certainly wasn't even in my summary of 10 findings.  11 So -- so in that sense I -- I preferred to 12 do it -- you know, to study hiring. I mean, I -- I 13 suppose but I'm not really focusing on hiring, the only -- 14 the only thing I use it for is to say something about 15 employment. Employment is a product of not just hiring, 16 right? It's a product of hiring, retention and 17 terminations.  18 Q. But, in fact, you did use the ACS data rather 19 than the applicant data in approximating the relevant 20 labor market?  21 A. Yes, to compare -- to compare employment at Wipro 22 to employment in the relevant labor market, I did. But 23 it's not because the applicant flow data would be the 24 right way to do that because that's only about, you know, 25 Lisa Myers -- only relevant to Lisa Myers, right?	Page 50	Page 52

<p>1 Q. Yes.</p> <p>2 A. Those things have to be related. I -- I -- one 3 doesn't know how strongly related they are. I think 4 that's a more accurate summary of what I said.</p> <p>5 Q. But as you yourself point out that the 6 composition of Wipro or any company at any one time 7 depends on more than hiring practices, correct?</p> <p>8 A. Yes. Yes. But I -- I will say that external 9 benchmarks are used to study hiring discrimination. Is it 10 as good as clean, complete, you know, untainted applicant 11 data? No, but we often don't have it.</p> <p>12 Q. Right. Well, I doesn't dispute that it's used. 13 The question is, is it properly used, and what's your 14 opinion about that? And then we'll go further.</p> <p>15 A. My opinion -- my opinion is, it -- it -- you 16 know, I -- I use the word "strongly consistent" 17 deliberately, and the "strongly" here refers to the 18 statistical -- let me be clear.</p> <p>19 The consistent is the direction of the 20 evidence, and maybe I should have said this. The 21 "strongly" is the very strong statistical evidence. I'm 22 not using "strongly" in the sense of what we discussed 23 earlier, which is ruling out other explanations, and one 24 can view this discussion we're having now as ruling out 25 other explanations.</p>	<p>Page 53</p> <p>1 Q. Right.</p> <p>2 A. Those are the only -- those are the three ways 3 the workforce changes.</p> <p>4 Q. That's right. So you can't compare the profile 5 or the snapshot of Wipro in a moment in time to an 6 external benchmark and conclude which of those three 7 elements of change are responsible, correct?</p> <p>8 A. Just from that, no. The -- the two I observe 9 well in the data are promotions and involuntary 10 terminations, both of which -- well, involuntary 11 terminations boosts the share of South Asian. Promotions 12 may or may not depending on who leaves and does not get 13 promotion.</p> <p>14 Q. I'd like to pose a hypothetical to you. Suppose 15 it is the case that Americans are the discriminators and 16 South Asians aren't. All Americans have a taste for 17 discrimination against South Asians. That's obvious, I 18 don't know --</p> <p>19 (Simultaneous speakers.)</p> <p>20 A. Are you mad at the people making the hiring 21 decisions, which Americans and South Asians don't?</p> <p>22 Q. All Americans.</p> <p>23 A. Okay.</p> <p>24 Q. American-owned companies have a taste for 25 discrimination against outside South Asians. American</p>
<p>1 So if you want to say, Is it hypothetically 2 true -- is it hypothetically possible, right, that there's 3 no discrimination hiring and the employment -- the -- the 4 hugely different share of South Asians is shaped solely by 5 promotions and terminations -- sorry, by terminations and 6 maybe -- maybe, you know, voluntary quits because you 7 don't get promoted or for what -- other reasons.</p> <p>8 You don't know if the numbers could work out 9 that way, but it's hypothetically true. It's 10 hypothetically possible. But, you know, employment and 11 hiring obviously are closely related because on average, 12 people don't stay in jobs for that long.</p> <p>13 So -- so there's -- there's a presumption 14 that what you see in one is reflected in the other. It's 15 not a direct measure of hiring. That -- that is clearly 16 true also.</p> <p>17 Q. Just to be clear, the profile you might say of 18 Wipro in terms of employment at any given moment in time, 19 a snapshot, depends on what the profile was at some 20 initial period, perhaps when Wipro first formed in the 21 United States, its hiring experience and its termination 22 experience?</p> <p>23 A. Including -- including -- if by termination you 24 mean both voluntarily and involuntary exit -- exit is the 25 more neutral term, yes.</p>	<p>Page 54</p> <p>1 workers have a taste for discrimination against 2 South Asians, not vice versa.</p> <p>3 In that world, how would the data look 4 different?</p> <p>5 A. Let me just ask you which -- which -- to be a 6 little more specific, which data? What -- give me some 7 measure of how you're asking.</p> <p>8 Q. That's a great point. Fair enough. The profile 9 data, the snapshots?</p> <p>10 A. Wipro's snapshot?</p> <p>11 Q. Yes.</p> <p>12 A. Well, I don't know who's making -- I don't 13 know -- I'm not sure if Americans or South Asians are 14 making the hiring decision.</p> <p>15 Q. Okay. Let's suppose American companies 16 discriminate against South Asia in this industry.</p> <p>17 A. Uh-huh.</p> <p>18 Q. Okay. You would expect to see fewer South Asians 19 employed at American companies by these same people, 20 correct?</p> <p>21 A. If they -- if they -- well, your hypothetical is 22 they have a taste to discriminate --</p> <p>23 Q. Yes.</p> <p>24 A. And we have laws that hopefully, you know --</p> <p>25 Q. Well --</p>

<p style="text-align: right;">Page 57</p> <p>1 A. -- make that -- make that not -- not be effective      2 to a greater extent, but there might be some of that.      3 Q. In which case because the South Asian employees      4 must work somewhere, you would expect them to be      5 overrepresented in companies owned by South Asians,      6 correct, who don't have that taste for discrimination?      7 A. I mean, maybe, maybe not. I mean, Wipro has --      8 Wipro has American workers too, who told you just told me      9 also like working with South Asians, and -- and the      10 South Asian share is clearly being driven by Visa      11 workers as well.</p> <p>12 So it's not just the Americans and      13 South Asians who can't find jobs. So, I mean, you know,      14 could that happen to some extent? Yeah. Do I think it's      15 the explanation of these huge discrepancies? Highly      16 unlikely, but --</p> <p>17 Q. You never --      18 (Simultaneous speakers.)</p> <p>19 A. You are posing a hypothetical, so yes, it could      20 happen to some extent. I don't -- it could happen to some      21 extent. I'd be -- I'd be -- I would very much doubt that      22 it could explain these numbers, you know -- these      23 employment numbers versus the benchmarks, so I can't      24 obviously say that, you know, scientifically.</p> <p>25 And it wouldn't explain why the South Asians</p>	<p style="text-align: right;">Page 59</p> <p>1 to be clear. It's hypothetically true, I suspect. I'm --      2 I'm highly suspicious of actually the explanation.      3 Q. But you've never looked at the employment profile      4 of an American-based or an American-owned company other      5 than a South Asian --</p> <p>6 A. I have not -- I have not yet been engaged by a --      7 a company -- a company in this industry being sued for      8 discrimination against South Asia, which might -- which      9 actually might be viewed as evidence that's not happening,      10 or maybe no one called me up. I can't tell -- I can't      11 distinguish between those two.</p> <p>12 Q. What is the basis for your assumption that in the      13 absence of discrimination, Wipro's workforce would      14 resemble the demographic data within the ACS?</p> <p>15 A. Well, I mean, that's -- that's the -- that's      16 the -- I mean, in -- in both research and as far as I know      17 in the legal setting, the -- you know, what we call the      18 no hypothesis if one wasn't discriminating and, you      19 know -- and there weren't some obvious other factor that      20 mattered, that hiring would be neutral, just like we would      21 expect it -- we're discriminating based on pay between men      22 and women that they're -- you know, the pay of similar men      23 and women would be.</p> <p>24 Do I -- you know, would it be exactly the      25 same? Not necessarily, right? I mean, you -- you raised</p>
<p style="text-align: right;">Page 58</p> <p>1 get favored in promotion decisions and involuntary      2 termination decisions at Wipro.</p> <p>3 Q. If Americans are underrepresented or      4 non-South Asians are underrepresented in South Asian      5 companies, as you opined on a number of occasions, they      6 must by definition be overrepresented in non-South Asian      7 companies, correct?</p> <p>8 A. Yes.</p> <p>9 Q. They have to work somewhere or there wouldn't be      10 in the ACS survey?</p> <p>11 A. There wouldn't be in the ACS in this industry,      12 yeah.</p> <p>13 Q. So you could create a profile of American-owned      14 companies that would be top heavy with Americans, just as      15 you find Wipro top heavy with South Asians?</p> <p>16 A. Okay. I just want to be clear here. We're --      17 we're -- we're in hypothetical world. I've seen no      18 evidence of some -- of those companies. I haven't -- you      19 know, in my research, in my -- in my -- in my expert      20 witness work, purely anecdotally -- and this is not data,      21 so I'll be clear. I live in the Bay Area. We are filled      22 with American-owned tech companies, and there is a lot of      23 South Asians at those companies.</p> <p>24 Now again, I can't -- I can't quantify that.</p> <p>25 So I find what you're suggesting -- you know, I just want</p>	<p style="text-align: right;">Page 60</p> <p>1 the issue of location, you know. Yeah, there are slightly      2 different states with slightly different shares of      3 South Asians, maybe it wouldn't be exactly equal. But,      4 you know, but that's -- it's -- it's the most obvious      5 starting point for the no hypothesis of what we would see      6 in the absence of discrimination.</p> <p>7 Q. You're --</p> <p>8 A. And -- and -- and those other factors I'm talking      9 about, it's not clear which way they push the analysis.      10 It's not clear to make the evidence weaker or stronger.      11 It just changes slightly.</p> <p>12 Q. But your judgments regarding discrimination and      13 with respect to employment are based on the fact that the      14 demographics of the Wipro workforce does not resemble the      15 demographics of the ACS data?</p> <p>16 A. It -- it does not resemble the demographics of      17 the ACS data in the same, you know, rough -- well, pretty      18 close to the same industry and pretty close to the same      19 occupation.</p> <p>20 Q. Right.</p> <p>21 A. Any -- I think any -- I -- I would -- I think any      22 reasonable labor -- I shouldn't say any, you know, who      23 knows what reasonable means. But I think -- I think most      24 reasonable labor economists would say that is clearly the      25 most natural benchmark to compare Wipro's composition to.</p>

<p>1 Q. Okay. Suppose one asks an additional question 2 which is, Why don't the two resemble each other. What 3 information do you have that makes it more likely that 4 it's discrimination rather than some other reason?</p> <p>5 A. I don't think I go out on any -- any limbs in 6 this report insisting -- I don't think I say anywhere it 7 is discrimination, and it's not anything else. I say it's 8 strongly consistent with discrimination, right?</p> <p>9 There, you know -- I think there's obviously 10 other material that the -- and I don't know -- I don't 11 know if they have other experts or whatever. But the 12 attorneys may -- may not be talking about or referring to 13 other -- other evidence.</p> <p>14 But I, you know -- I -- my -- my role here 15 is not -- what, you know -- was not defined as and 16 therefore is not to assess, you know, the qualitative 17 evidence and the declarations of people who say they, you 18 know, experienced discrimination and all that other kind 19 of stuff. I have a -- I'm just -- I'm here just to do a 20 statistical analysis of the data.</p> <p>21 So there are other parts of the picture, but 22 I'm not -- you know, I'm not a -- I haven't reviewed 23 those. I haven't seen most -- really the only other stuff 24 I've seen along those lines -- everything -- everything I 25 looked at and considered is in my report.</p>	<p>Page 61</p> <p>1 they are based on data, I will presumably be asked to -- 2 to weigh in on what I think of those analyses.</p> <p>3 Q. Please take a look at paragraph 37. It's on 4 page 16.</p> <p>5 A. Uh-huh, okay.</p> <p>6 Q. I'm focusing on this paragraph unlike others 7 where you say it's "consistent with." Here you're saying 8 the evidence "strongly suggests."</p> <p>9 Is that a different degree of confidence?</p> <p>10 A. No, I don't think so. I think the same -- I 11 think the same as what I said -- I mean, there's a 12 difference here. This -- this is not a comparison to 13 benchmark data, right? This is a comparison of the -- 14 because there's no -- there's no -- there's no -- there's 15 no Career Bands in the ACS data obviously.</p> <p>16 So this is just a comparison of where people 17 are coming at Wipro, South Asians versus non-South Asians. 18 So I -- I -- probably -- it probably would have been just 19 fine to use the same consistent -- I think -- I think the 20 reason I use "suggested" is because -- I'll check before I 21 say this.</p> <p>22 This is Table 2, I think. I did not -- 23 there's not actually a statistical test in this table. 24 This is just comparing the percentages. I believe that is 25 why -- because I'm pretty careful on the language.</p>
<p>Page 62</p> <p>1 There were obviously some things referenced 2 in the motion that point in that direction, but I'm not 3 testifying about those because I didn't, you know, talk to 4 those people or know them or anything -- anything about 5 that.</p> <p>6 Q. So when you say that the data are consistent with 7 discrimination, you're not ruling out the possibility that 8 it's also -- data are also consistent with 9 nondiscriminatory explanations?</p> <p>10 A. I cannot decisively rule it out for the reasons 11 we discussed I think right at the outset, which is I 12 haven't estimated, you know, I mean, I'm studying -- all 13 I'm studying here is outcomes like South Asians status 14 group, right, with some disaggregation.</p> <p>15 So there are some cases like the promotions 16 by band where you could think about that as controls. But 17 I haven't done a detailed analysis of -- that incorporates 18 other potentially legitimate explanations for the 19 differences because -- you know, it wasn't my 20 understanding -- it wasn't really the goal at this stage, 21 and I didn't have the data anyways.</p> <p>22 As I said, my understanding of the way this 23 works is, you know, a disparity is established. The 24 company has, you know -- has the potential to -- you know, 25 to offer not discriminatory explanations. To the extent</p>	<p>Page 64</p> <p>1 I believe that is why I said that instead of 2 "strongly consistent," which I -- I hope I've reserved -- 3 you might trip me up on an example, but I hope I've 4 reserved for some reason the statistical test --</p> <p>5 Q. So the -- the conclusion you reference in 6 paragraph 37 is not based on formal statistical test?</p> <p>7 A. Correct.</p> <p>8 Q. And it also isn't based on the analysis that 9 contains nondiscriminatory reasons with respect to the 10 selections that are being made?</p> <p>11 A. It's a description of outcomes, the outcome here 12 being the band into which you are hired. There are 13 statistical tests to do -- I just -- frankly I don't -- I 14 didn't -- I didn't for that particular case -- that 15 particular example.</p> <p>16 But one can obviously do statistical tests 17 that compare distributions across two dimensions, and 18 I'm -- I'm pretty sure what we would find -- these are 19 huge differences. There's -- there's no way these 20 wouldn't be strong.</p> <p>21 Q. Okay. You also didn't do a statistical test 22 regarding the uniformity of the differences in each job 23 classification.</p> <p>24 A. By which you mean the difference between the 25 percentages in each row versus the last row?</p>

<p>1 Q. Yes.</p> <p>2 A. Sure. But that's why I said if I compare -- or 3 let's say group -- so the total row is 11,600 people, 4 71 percent -- I'm going to round here, 71 percent 5 non-South Asian, 29 percent South Asian. Take, oh, I 6 don't know, group C1, 648 people. Those percentages 7 differ by 29 or 30 percentage points.</p> <p>8 If you want to take a side bet on that being 9 statistically significant consistent with the last row, 10 I'll be happy to take that bet, or however big you want it 11 to be.</p> <p>12 And that would be true for many of these 13 rows. Maybe not group E with 15 people because that's not 14 many people, but these ones with hundreds of people and 15 percentage point differences of 10 or 20 or 30 -- even 16 close to 30 for sure.</p> <p>17 MR. KING: Can we go off the record for a 18 second?</p> <p>19 VIDEOPHOTOGRAPHER: Going off the record at 20 11:51.</p> <p>21 (Recess taken from 11:51 a.m. to 12:28 p.m.)</p> <p>22 VIDEOPHOTOGRAPHER: We are back on the record at 23 12:27. You may proceed.</p> <p>24 Q. (BY MR. KING) Dr. Neumark, I'd like to have one 25 more question about the ACS data, and my question is</p>	<p>Page 65</p> <p>1 put in all four or one at a time?</p> <p>2 MR. KING: I think all four would be fine.</p> <p>3 MS. RODRIGUEZ: I'll be sending it over 4 through the chat function.</p> <p>5 THE REPORTER: Are you marking all of those 6 as one exhibit?</p> <p>7 MR. KING: You know, maybe we ought to make 8 each one a separate exhibit. It would be a bit easier 9 perhaps.</p> <p>10 THE WITNESS: So did we just get one of 11 them?</p> <p>12 MR. RODRIGUEZ: Yes, I'm sending them one by 13 one. So there should be in four total.</p> <p>14 (Reporter clarification.)</p> <p>15 MR. RODRIGUEZ: When I send them across, I 16 will label them correctly for you for after the 17 deposition.</p> <p>18 THE REPORTER: Thank you.</p> <p>19 MR. KING: Ms. Rodriguez, would you tell us 20 which ones you are identifying as 2, 3, 4 and 5?</p> <p>21 MR. RODRIGUEZ: So they will be identified 22 in the order I send them across, so the one that has 9 23 will be 2. The one that's 10, 2015, will be 3. 11, 2017 24 will be 4. And 12, 2018 will be 5.</p> <p>25 (Exhibits 2-5 marked.)</p>
<p>Page 66</p> <p>1 whether you stratified any of your analyses by the 2 education level of any of the individuals reported in that 3 sample?</p> <p>4 A. I did not. I -- I -- I believe -- well, there is 5 education data in the ACS. I don't think I have education 6 data in the Wipro data. Obviously conditioning on 7 industry and occupation is going to, you know, capture a 8 lot of education variation, but I didn't do it directly 9 aside.</p> <p>10 Q. Okay. Thank you.</p> <p>11 Dr. Neumark, I believe you were provided and 12 you reference in your report that you received the 13 promotion policies that were in effect during the class 14 period?</p> <p>15 A. Right.</p> <p>16 MR. KING: Ms. Rodriguez --</p> <p>17 A. I don't know if I have this complete. I 18 reference two -- two documents. I don't recall if they're 19 different or not, but, yes.</p> <p>20 Q. (BY MR. KING) Well, we're going to put them in 21 evidence, and then you can discuss those in your 22 testimony.</p> <p>23 MR. KING: So Ms. Rodriguez if you would 24 please put those into evidence, please.</p> <p>25 MR. RODRIGUEZ: Allan, would you like me to</p>	<p>Page 66</p> <p>1 Q. (BY MR. KING) Dr. Neumark, please look at 2 Exhibit 2.</p> <p>3 A. Which is number 9, right? Okay. I have it. 4 Make it a little smaller because it came up huge. Okay.</p> <p>5 Q. I'm not sure where the number -- I see. Okay. 6 Please turn to page 2.</p> <p>7 A. Okay.</p> <p>8 Q. Under paragraph 2, what's the effective date on 9 Exhibit 2 that you have?</p> <p>10 A. March 1, 2014.</p> <p>11 Q. Okay. Have you reviewed this document before?</p> <p>12 A. Yes. Let me make sure -- yeah. This looks to be 13 the second one I call promotion policy in my materials.</p> <p>14 Q. Okay. Do you see that in paragraph 3 there's a 15 description of the timeline?</p> <p>16 A. Yeah.</p> <p>17 Q. Okay. If it's the case that you have to be 18 present to be promoted, do you take account of who is 19 present during -- or at the appropriate dates in order to 20 receive a promotion in your analysis?</p> <p>21 A. Sorry. So I -- so I -- the -- the time -- if 22 you're asking about -- just to make sure I understand the 23 question. The two lines below timeline refer to when 24 they're effective?</p> <p>25 Q. Yes.</p>

<p>1 A. So you -- is what you're asking, if I was 2 studying let's say B3 to refer to the first line and 3 someone was hired in -- on June 2nd, they could not have 4 been promoted that year. Is that what -- you're asking 5 about that. 6 Q. Yeah, yeah. 7 A. I'm just trying to understand the question. 8 No, they would -- they would be considered 9 not -- there's -- there's -- that would be -- so in the 10 year -- in the first year of employment, if they were 11 hired June 1st B3 or below or October 11th, C1 and above, 12 that would not be counted -- that would be -- that would 13 be an observation in the data without a promotion by -- by 14 construction. 15 Q. Right. But would you delete that person from the 16 pool of eligibles in your analysis? 17 A. I haven't. 18 Q. And the same would be true with respect to the 19 C1 promotions? 20 A. Yeah, probably because it's later, less likely -- 21 much less likely to be relevant, correct. 22 Q. Right. But if I understand, what you did do was 23 ask, were you present in the data between two dates and 24 then were you promoted? 25 A. Correct.</p>	<p>Page 69</p> <p>1 A. Yes. 2 Q. Did you consider the fact that longer tenure may 3 improve the likelihood of a promotion? 4 A. Well, that -- that goes to our previous 5 discussion, that I have not -- I have not 6 explored model -- sorry. I have not explored models of 7 potential explanatory factors, you know, I mean, the main 8 reason being, I would -- I -- I don't know of company 9 policy -- I haven't read anything, but my guess would be 10 how you're performing the job is the most important thing 11 for promotions. It usually is. 12 It's not clear which way tenure goes. Some 13 of the people have been in the job the long -- for a long 14 time -- the lowest performers, that's why they're still 15 there. 16 I would be -- I would be very, you know, 17 given -- and with respect to the tenure question, given 18 that I have evidence of higher involuntary termination 19 rates for non-South Asians, that sure makes using tenure 20 as a control variable problematic as it's harder -- it's 21 clearly harder for non-South Asian to accumulate tenure 22 that might be required, and in fact, according to some of 23 the other information in this document, is required, as I 24 understand it, as a criteria -- as a criterion for 25 promotions.</p>
<p>1 Q. How long you were in the data is not accounted 2 for in your work?</p> <p>3 A. Let me think about that for a second. That's 4 correct. Well, let me -- let me -- let me -- let me 5 clarify that a little. 6 So, yeah, how long you were present is not 7 reflected in my work, but in my promotion analysis -- 8 remember, there's -- there's -- there's a pool column, 9 right, in column -- let's say, for example, column -- 10 almost there, sorry -- the last column in 3, and then all 11 of the stuff by band is for the pool analysis. 12 And there I'm counting whether you're ever 13 promoted, so, you know, I -- it -- if you got hired let's 14 say for B3 and below, you know -- if you got hired in July 15 and canned in August or left in August, doesn't matter why 16 you left, then you can say maybe that should not have been 17 in sort of an at risk of being promoted. 18 But for the pooled analysis, because that 19 extend over multiple years, that's going to be very 20 unimportant. 21 Q. But those individuals are included? 22 A. Yes, they -- yes. 23 Q. So again, as a literal matter, if someone is 24 employed for one day, they are in the same pool of being 25 at risk for promotion, correct?</p>	<p>Page 70</p> <p>1 Q. If you go down the same page to paragraph 5. 2 A. Uh-huh. 3 Q. You see that under subparagraph 1, to be 4 promoted, one has to have 12 months of continuous service. 5 A. You cut out. I think you cut out, at least for 6 me, sorry. 7 Q. Yeah. Under subparagraph 1, do you see where it 8 says you must have at least 12 months of continuous 9 service? 10 A. Yeah. 11 Q. That requirement is not incorporated into your 12 analysis, is it? 13 A. I -- I have not incorporated these requirements 14 for -- well, that one in particular, I -- I didn't do 15 because it is not clear what to make of matters of 16 continuous service when those can be affected by 17 involuntary termination, and obviously because if you read 18 the remaining items in paragraph 5, there's a bunch of 19 things I have no data on. 20 So again, whether this comes back later with 21 Wipro supplying the data on all these things and gets 22 analyzed remains to be seen, I suppose. 23 Q. Okay. What about the case of employees who 24 previously were promoted and would not be eligible for a 25 subsequent promotion for another 24 months? And I'm</p>

<p style="text-align: right;">Page 73</p> <p>1 referring to the requirement of -- on the very next page, 2 the second bullet point under subparagraph 1.</p> <p><b>3 A. Right.</b></p> <p>4 Q. Is that reflected in any way in your analysis?</p> <p><b>5 A. It's not.</b></p> <p>6 Q. Moving down that same page, are any of the 7 performance scores included in your analysis?</p> <p><b>8 A. No, and that's because to the best of my 9 knowledge Wipro declined to -- well, I don't know whether 10 they have the data, but they declined to turn it over if 11 they do have it. There's nothing I can do about that.</b></p> <p><b>12 And again whether that surfaces later and we 13 look at the data, we will -- we will see. You know, 14 performance ratings again -- and this is not my expertise, 15 this is -- usually there's these are industrial psychology 16 folks who address questions of fairness of performance 17 rating, but it is always an issue in these kinds of cases.</b></p> <p>18 Q. Moving to paragraph -- I think it's subparagraph 19 4, critical band factors --</p> <p><b>20 A. Subparagraph -- you mean, in 5. Okay. Yeah.</b></p> <p>21 Q. Yeah, it's not the best numbering system. But do 22 you see it's entitled "Critical Band Factors"?</p> <p><b>23 A. Yes.</b></p> <p>24 Q. Okay. And these apply only to employees and 25 peers in Wipro Infotech?</p>	<p style="text-align: right;">Page 75</p> <p>1 VIDEOGRAPHER: Going off the record at 2 12:43.</p> <p>3 (Recess taken from 12:43 p.m. to 12:48 p.m.)</p> <p>4 VIDEOGRAPHER: And we are back on the record 5 at 12:48. You may proceed.</p> <p>6 Q. (BY MR. KING) If only I knew where we left off.</p> <p>7 THE REPORTER: Do you need help?</p> <p>8 Q. (BY MR. KING) I know we were looking through the 9 promotion policies, and take your time to look through 10 this, but I'm hoping this might get us through a lot of 11 other questions.</p> <p>12 Is it fair to say if we look at Deposition 13 Exhibit 2 that your analysis does not incorporate any of 14 the qualifications and limitations that are included in 15 Exhibit 2 regarding promotions? I know that's a global 16 question but --</p> <p><b>17 A. No. I do not estimate models for promotions, 18 taking account of things on which I don't have data 19 obviously or, you know, what -- what looks to me like from 20 this -- you know, from this and related documents, you 21 know, other -- other -- a few things I might have data on. 22 Not clear I want to.</b></p> <p><b>23 Anyways, but I -- I'm -- as I said clearly 24 on what I'm doing at this point is documenting disparities 25 and promotion rates.</b></p>
<p style="text-align: right;">Page 74</p> <p><b>1 A. I see that.</b></p> <p>2 Q. Did you segregate the group of Wipro employees in 3 analyzing promotion opportunities by business unit?</p> <p><b>4 A. No, because I don't know that I have any -- I 5 frankly don't even know what the paragraph below this 6 means, but I certainly would go through data on 7 whatever -- whatever they purport to be talking about 8 here.</b></p> <p>9 Q. Okay. Did you recognize that managers first must 10 nominate employees there?</p> <p><b>11 A. Well, I mean, I can -- I can see it says that, 12 but -- I'm not aware that I have any data on anything like 13 that. But, you know, to think about not nomination for a 14 promotion as an -- as an independent criterion for 15 promotion seems an odd way to think about it because it's 16 effectively the first stage of promotion decision, you 17 know, as opposed to performance rating, which -- which is 18 objective is the measure of employee performance.</b></p> <p><b>19 I mean, if you told me that South Asians get 20 all the promotions, but that's because managers nominate 21 them, well, does that mean they got the promotion. No, 22 it's just kicking the can up the road.</b></p> <p>23 THE REPORTER: We are having audio issues 24 again.</p> <p>25 (Reporter clarification.)</p>	<p style="text-align: right;">Page 76</p> <p>1 Q. Right.</p> <p><b>2 A. And I'm not making stronger claims than that that 3 deviate strongly from the no hypothesis of equal promotion 4 rates, which is consistent with discrimination.</b></p> <p>5 Q. Let me try it this way.</p> <p><b>6 A. I spilled my coffee. Give me one second. The 7 advantage of remote depositions. You can go I think 8 change your shirt.</b></p> <p>9 Q. That's pretty good.</p> <p>10 We looked through paragraph 3 in Deposition 11 Exhibit 2, and I believe you testified that you did not 12 consider the impact of the timeline specified in 13 paragraph 3, correct?</p> <p><b>14 A. That's probably correct, right. I didn't -- as 15 we established, I didn't take account of the possibility 16 that in a year, you came in after -- you were hired after 17 one of these effective dates and therefore couldn't have 18 showed up as promoted in that year.</b></p> <p><b>19 But -- but the other -- I mean, but I 20 don't -- I don't need to know -- I mean, effective date is 21 not relevant to those who were hired before that because 22 my -- my snapshots are defined as of the end of each year 23 and whether you were promoted in that year.</b></p> <p>24 Q. But what if I'm terminated before June 1st and 25 I'm B3 and below, I couldn't receive that promotion, could</p>

<p>1 I?</p> <p>2 A. Well, actually -- I don't -- I don't actually 3 know. I -- this would be effective -- I'm not exactly 4 sure -- I mean, principally if you were promoted and then 5 fired, and I don't know that is what is in the data I have 6 is the decision to promote or the recording of for whom it 7 became effective, just like they promoted me voluntarily. 8 I don't -- I'm not sure that would or 9 wouldn't -- I'm not sure that would not show up as 10 promotion in my data. I understand it wouldn't be 11 effective. You wouldn't get your higher pay or, you know, 12 whatever until that day. That's what I interpret as 13 effective. I -- I simply don't know the link between that 14 and the data.</p> <p>15 Q. And would your answer be the same with respect to 16 the next line, C1 and above --</p> <p>17 (Simultaneous speakers.)</p> <p>18 A. Everything would be the same after that.</p> <p>19 Q. Okay. And you didn't account for the fact that 20 you needed 12 months of continuous service. That's not 21 reflected in your analysis?</p> <p>22 A. We already established that, and again it's not 23 clear -- it's not clear -- if I were estimating a model 24 for promotions with more controls, and, you know, we had 25 all this data and all these other things later on. It's</p>	<p>Page 77</p> <p>1 it is.</p> <p>2 MR. RODRIGUEZ: That would be the one 3 labeled number 10 and the year 2015.</p> <p>4 MR. KING: Right. That's Deposition Exhibit 5 Number 3?</p> <p>6 MR. RODRIGUEZ: Correct.</p> <p>7 Q. (BY MR. KING) And we can agree since you didn't 8 have it, you couldn't have relied on any information in 9 it?</p> <p>10 A. Correct. It looks to me like I had -- I know 11 these numbers are weird, but I have a 9 and 11, which I 12 think is 2 and 4 judging from my -- looking at my 13 materials page.</p> <p>14 Q. Deposition Exhibit Number 4, do you have that 15 now?</p> <p>16 A. I do.</p> <p>17 Q. Would you have that effective date on page 2 of 18 that exhibit or the second page?</p> <p>19 A. September 21, 2017.</p> <p>20 Q. Okay. So would you please look at paragraph 5 on 21 that same page. You see the first bullet point once again 22 is about 12 months of continuous service, and I assume 23 your answer is the same as earlier?</p> <p>24 A. Yes. My answer would be the same as earlier 25 about what I -- I didn't use or couldn't use and why I</p>
<p>Page 78</p> <p>1 not clear I would -- I would want to include that model 2 anyways since I know there's a termination difference 3 across the two groups.</p> <p>4 That goes back to what we talked about 5 earlier, way earlier in the wage, regression and gender 6 gap for example, over-controlling -- controlling for 7 things I couldn't themselves reflect --</p> <p>8 Q. We also discussed this minimum of 24 months 9 waiting period essentially who have been previously 10 promoted. That's not accounted for?</p> <p>11 A. Right. And then I would not have -- that 12 would -- would also at least partially fall under the data 13 I don't have because I don't have any data before 2014. 14 So if I'm studying that -- you know, at least -- at least 15 for the first two years of the data, let's say, that would 16 be the same problem as for the performance data. I simply 17 couldn't know whether you were previously promoted.</p> <p>18 Q. And then you anticipated my next question, so you 19 didn't include any performance information?</p> <p>20 A. I didn't have it.</p> <p>21 Q. Okay. Please turn to Deposition Exhibit 3.</p> <p>22 A. Yeah, that's 2278. I don't -- I don't think I 23 listed this one in my material. I don't think I have this 24 one, although they are very similar.</p> <p>25 MR. KING: I just want to confirm which one</p>	<p>Page 80</p> <p>1 might not have used it anyways.</p> <p>2 Q. All right. The next bullet point refers to a 3 "Team Rainbow." Do you see that?</p> <p>4 A. I'm sorry, yeah. I was just -- maybe I am 5 missing -- yes, I do see Team Rainbow in paragraph 5.</p> <p>6 Q. Do you know what that is?</p> <p>7 A. No.</p> <p>8 Q. I take it since you don't know what it is, you 9 couldn't have accounted for it in your analysis?</p> <p>10 A. Yes. Well, I mean, just by -- well, put it this 11 way, I -- I -- I have a -- it seems to be related to the 12 band, so I'm guessing this is just, you know, a subset of 13 bands, in which case I did do it because I looked at -- I 14 looked at promotion differences by bands.</p> <p>15 Now maybe team -- maybe -- it says "in case 16 the joining band of the employee is Team Rainbow," that 17 implies something other than Team Rainbow is not like the 18 bands, so I don't know what it is, but then I wouldn't -- 19 then I might not have.</p> <p>20 Q. The next bullet point deals with the 24 months in 21 the current Career Band if you had been promoted before. 22 Do you see that?</p> <p>23 A. I do.</p> <p>24 Q. Okay. Is your answer the same here as it was 25 with respect to the previous exhibit?</p>

<p>Page 81</p> <p>1   <b>A. No difference, yep.</b></p> <p>2   Q. Okay. Then if you turn to page, you see that 3 there are various performance criteria, and is your answer 4 with respect to the performance criteria the same as with 5 the previous exhibit?</p> <p>6   <b>A. Yes.</b></p> <p>7   Q. Meaning you were not able -- or you did not take 8 it into account?</p> <p>9   <b>A. The first, I was not able to. I didn't get it.</b></p> <p>10 <b>I didn't have the data, and I believe that's because Wipro</b> 11 <b>was asked to provide it -- well, I believe Wipro was asked</b> 12 <b>to provide it and didn't. Whether they could have, I</b> 13 <b>don't know.</b></p> <p>14   Q. Okay. Moving down that page to the next 15 subparagraph labeled 3, "Evaluation"?</p> <p>16   <b>A. Yes.</b></p> <p>17   Q. It says in bold, Band 3 and below -- B3 &amp; Below"?</p> <p>18   <b>A. Yes.</b></p> <p>19   Q. You see something referred to as "Trend.Nxt 20 guidelines."</p> <p>21   <b>A. Yes.</b></p> <p>22   Q. Do you know what those are?</p> <p>23   <b>A. No.</b></p> <p>24   Q. Okay. Is it fair to say that if you didn't know 25 what they are, you could not have taken them into account?</p>	<p>Page 83</p> <p>1 <b>promotion rates between South Asians and non-South Asian.</b></p> <p>2 <b>A vacancy is a vacancy.</b></p> <p>3   Q. Then on Bates page 828 --</p> <p>4   <b>A. Yes.</b></p> <p>5   Q. -- you see it describes that "Trend.Nxt 6 competency framework"?</p> <p>7   <b>A. Yes.</b></p> <p>8   Q. Did that figure at all in your analysis?</p> <p>9   <b>A. Didn't for the same reason I described and</b> 10 <b>explained earlier.</b></p> <p>11   Q. Okay. Sorry. The phone will stop ringing in a 12 second. Please let's look at Exhibit 5.</p> <p>13   <b>A. Okay.</b></p> <p>14   Q. Did you previously receive this document?</p> <p>15   <b>A. I -- I don't believe so. It's not in my</b> 16 <b>materials. It looks similar to what we talked about, but</b> 17 <b>I think I only got two of the four.</b></p> <p>18   Q. Okay. Just to be sure we're talking about the 19 same exhibit --</p> <p>20   <b>A. Oh, I'm sorry, this is a different -- I'm sorry.</b></p> <p>21 <b>Global Company -- 49 -- 42929.</b></p> <p>22   Q. Yes.</p> <p>23   <b>A. Yeah. I don't list it here, which hopefully</b> 24 <b>means I didn't get it because this is supposed to be</b> 25 <b>everything I got and -- everything I got and deemed</b></p>
<p>Page 82</p> <p>1   <b>A. Yes, I mean, there was -- there's -- there was,</b> 2 <b>you know, an early decision that I was going to look at</b> 3 <b>just disparities and the outcome. So I didn't -- there</b> 4 <b>wasn't a need to figure out what all these things were.</b></p> <p>5   Q. Okay.</p> <p>6   <b>A. And that data -- I didn't have data. This is</b> 7 <b>under "Evaluation." I didn't have data on evaluations.</b></p> <p>8 <b>That was kind of the end of the story.</b></p> <p>9   Q. If you turn to -- well, let's use the Bates label 10 at the bottom 827 because the pages aren't numbered.</p> <p>11   <b>A. Oh, same document?</b></p> <p>12   Q. Same document, sir.</p> <p>13   <b>A. Okay.</b></p> <p>14   Q. Great. Please look at the paragraph below the 15 diagram and the sentence -- second sentence says "Final 16 promotion decision is taken after leadership review and is 17 also dependent on there being a vacancy at the higher 18 band."</p> <p>19         Did you in any way incorporate the notion 20 that a vacancy was required in order for a candidate to be 21 promoted?</p> <p>22   <b>A. To the best of my knowledge, I have -- I have no</b> 23 <b>information on vacancies or anything like that, you know,</b> 24 <b>but I should say is I can't -- I can't quite imagine a</b> 25 <b>reason why this would generate the difference between</b></p>	<p>Page 84</p> <p>1 <b>relevant, so I don't recall. I -- I -- my best</b> 2 <b>assessment is I did not get it.</b></p> <p>3   Q. Okay. Let's put this aside then. In 4 paragraph 39 --</p> <p>5   <b>A. Back to my report?</b></p> <p>6   Q. Yes. Thank you for the reminder.</p> <p>7   <b>A. Okay.</b></p> <p>8   Q. And that's Exhibit 1. Paragraph 39 reports the 9 results for your promotion analysis.</p> <p>10   <b>A. Right.</b></p> <p>11   Q. And I just wanted to confirm that in this first 12 paragraph, there are no controls for anything, and this 13 might be referred to as a 2x2 analysis essentially, where 14 you use South Asian or non-South Asian, whether you are 15 promoted or you're not promoted?</p> <p>16   <b>A. Just looking at the table to confirm, but yeah.</b></p> <p>17         (Simultaneous speakers.)</p> <p>18   Q. Correct?</p> <p>19   <b>A. Yeah.</b></p> <p>20   Q. Okay. And then in table -- I'm sorry, 21 paragraph 41, you're reporting on results using 22 Career Bands. Am I correct?</p> <p>23   <b>A. Correct.</b></p> <p>24   Q. And the results that your reference are recorded 25 in Table 4. Are there any disparities in Table 4 that are</p>

<p>1 not significant in your opinion?</p> <p>2 A. Well, let's -- let's just be clear on one thing, 3 you know. When we say statistically significant, you 4 always have to specify a significance level -- and the 5 Court should use a 5 or 1 percent level, but you know, you 6 can define statistically significance at a 47 percent 7 level if you want.</p> <p>8 Q. By whom --</p> <p>9 A. So if there's a 5 percent level, which I'm 10 getting to, then it would be -- the not not significant 11 5 percent level is the group A1, A2, A3, AA, D2 just on 12 the borderline and E. Those, by the way are -- except for 13 A3 and AA, those are bands with a lot fewer people.</p> <p>14 Q. Thank you.</p> <p>15 When you identify an individual with a band, 16 is it the band into which you are promoted or the band 17 from which you are promoted?</p> <p>18 A. What I'm using here is -- is -- is almost exactly 19 the band from which you were promoted. I actually -- I'm 20 doing a slight simplification here as the notes explain. 21 It's the -- it's the -- as it says, it's the band at which 22 you were first observed in the data, so which is 2014 if 23 you were already working and later -- later if you got 24 hired subsequent to that.</p> <p>25 We don't -- I don't track it kind of</p>	<p>Page 85</p> <p>1 could rule out alternative explanations because I don't 2 have the data, and as I said before that -- you know, if 3 data are produced or arguments are produced, I assume I'll 4 have a chance to respond to that.</p> <p>5 My -- my understanding is the way (audio 6 distortion) they are here for these -- applications.</p> <p>7 Q. I know you noticed that some of the data you've 8 been provided includes what the company refers to as 9 contract employees, and you've identified who they are in 10 your dataset.</p> <p>11 Am I correct in believing that you've 12 excluded them from all of your analyses?</p> <p>13 A. The only -- the only places they are included is 14 in the assignment of names. I don't -- because as we 15 discussed earlier -- earlier, I'm using the data on people 16 whose nationality is South Asian as part of my source of 17 South Asian names, and there would be no reason to not -- 18 more information, no reason not to use them for that -- 19 for that information, but they do not get used anywhere 20 else, I believe.</p> <p>21 Q. Let me rephrase then what I asked before. These 22 contract employees play no part in any of your 23 quantitative analyses?</p> <p>24 A. Correct. They are I believe -- I believe -- I 25 believe every table of quantitative analysis either says</p>
<p>Page 86</p> <p>1 dynamically, but there's almost no cases of people being 2 promoted more than once, so that -- that should be thought 3 of as virtually equivalent to the band you were being 4 promoted from.</p> <p>5 Q. And you don't take into account how long anyone 6 is in a band, correct?</p> <p>7 A. Correct, for the same reasons I explained 8 earlier.</p> <p>9 Q. Right. Is it a fair summary to say that within 10 each of the bands, you consider only South Asian versus 11 non-South Asian status but no other differentiating 12 factors?</p> <p>13 A. That's accurate. I'm documenting the disparities 14 in this case by Table 4.</p> <p>15 Q. And in paragraph 42 your conclusion is that the 16 results are strongly consistent with discrimination?</p> <p>17 A. Well, you left out a part, "in higher Career 18 Bands" is what the sentence says.</p> <p>19 Q. Oh, right, right. Exactly.</p> <p>20 A. And in the paragraph above I'm a lot more 21 specific about which band.</p> <p>22 Q. Okay. I just want to emphasize that your opinion 23 is consistency, not let's say exclusivity in the sense 24 that you've ruled out alternative explanations?</p> <p>25 A. That's correct. I have not done analyses that</p>	<p>Page 88</p> <p>1 they're excluded or says -- as noted from the earlier 2 table, which says the same thing.</p> <p>3 Q. Okay. Have you considered the hiring of -- 4 sorry, voluntary terminations with Wipro in any fashion?</p> <p>5 A. No.</p> <p>6 Q. Do you know whether South Asians predominate 7 among voluntary terminations?</p> <p>8 A. You mean disproportionately?</p> <p>9 Q. Yes.</p> <p>10 A. I mean, I'm sure -- I'm sure they predominate 11 because they predominate on employment, but I -- I have 12 not looked -- I have not -- to answer my first question -- 13 your first question: I have not looked at those data, so 14 I don't know more.</p> <p>15 Q. And they were never a part of any analysis you 16 performed?</p> <p>17 A. No. I've never -- I've never seen voluntary 18 terminations treated in a discrimination case as an -- as 19 an outcome of interest. I mean, in the economics 20 literature, we are sometimes -- you know, we sort of -- we 21 recognize the possibility that someone who is made very 22 unhappy at work may voluntarily quit, even though it's not 23 really voluntary, but that's a -- you know, it's a 24 theoretical curiosity.</p> <p>25 Q. Have you done any analysis of how Visas impact</p>

<p>1 the decision to quit voluntarily?</p> <p><b>2 A. No.</b></p> <p>3 Q. In any study that you've done previously?</p> <p><b>4 A. You mean in any case?</b></p> <p>5 Q. Yeah.</p> <p><b>6 A. So sort of -- do you mean have I studied the effect of Visa status separately from -- not necessarily along with -- with nationality; is that what you're asking?</b></p> <p>10 Q. I'm struggling about the separately from qualification or in combination. It seems to me it would be relevant as well.</p> <p><b>13 A. Right. Right. Right. I don't -- I didn't review all my other -- I didn't review reports for other cases to prepare for this depo, I guess, for obvious reasons. I don't think so.</b></p> <p>17 Q. So the methodology, just in a nutshell, in your involuntary discrimination is look at everybody who was there who could have been involuntarily terminated, and then see whether the proportion of termination differs between South Asians and non-South Asian?</p> <p><b>22 A. The proportion of involuntary termination is different?</b></p> <p>24 Q. Yes.</p> <p><b>25 A. Yes.</b></p>	<p>Page 89</p> <p>1 Q. These people are removing themselves from the pool.</p> <p><b>3 A. I mean, you know, I'll -- I'll just be clear.</b></p> <p><b>4 I -- I have no reason to believe it's true. I just --</b></p> <p><b>5 just I think it's important for a clear answer about the hypothetical.</b></p> <p>7 Q. Uh-huh.</p> <p><b>8 A. But obviously if it was impossible for 9 South Asian Visa holders to be involuntarily terminated,</b></p> <p><b>10 then I -- I would estimate a lower involuntary termination 11 rate for them to be clear.</b></p> <p>12 Q. I was having trouble understanding your answer.</p> <p>13 Would you say it's impossible -- the question is: If 14 South Asians are motivated to voluntarily quit or remove 15 themselves from the pool voluntarily because either 16 they're incentivized to get alternative employment or 17 because they are being repatriated or for any reason that 18 disproportionately affected them relative to 19 non-South Asian, that -- but that would bias the 20 conclusions you had reached by only analyzing involuntary 21 terminations.</p> <p><b>22 A. Well --</b></p> <p>23 MR. LOW: Objection, asked and answered, but 24 go ahead.</p> <p><b>25 A. I mean, you're constructing the hypothetical, and</b></p>	<p>Page 91</p>
<p>1 Q. Suppose it's the case because of Visa issues, 2 South Asian employees are more motivated to leave before 3 they're terminated involuntarily.</p> <p><b>4 A. You don't have to ask -- answer my question 5 because you're the one asking questions, but just -- just 6 so I know -- why would that happen just so I can think of 7 what you have in mind?</b></p> <p>8 Q. Well, there may be more than one cause. But 9 suppose these individuals are required to repatriate after 10 a period of time, so they remove themselves from the pool 11 of those who could be involuntarily terminated.</p> <p><b>12 A. I mean, it's -- I say two things. It's a 13 hypothetical. It's not clear why you'd do that because I 14 suppose if I were here and really wanted to be here, I'd 15 say, terminate me first, and then -- and then I'll decide 16 what to do.</b></p> <p><b>17 But also understand there's a -- this may 18 not be relevant but, you know, to exactly answer your 19 hypothetical, but in terms of analysis, my understanding 20 is there's a stipulation that reference to what the 21 implication of going back to India is for terminations 22 analyses is off the table.</b></p> <p>23 Q. Well, we can argue about that, but what 24 about as -- as a statistical matter or an economic matter.</p> <p><b>25 A. I would state it again --</b></p>	<p>Page 90</p> <p>1 <b>your hypothetical is that if you're a non-South Asian and 2 the company wants to get rid of you, they just 3 involuntarily terminate you. If you're a South Asian, 4 they say, we're going to involuntary terminate you, but 5 before -- but either they give you a warning or you just 6 choose to do before they do, you do something else.</b></p> <p>7 <b>Sure, then it's biased. I don't know why 8 it's any more likely to be biased in that direction than 9 the other direction, and I don't know how plausible the 10 whole scenario is anyways.</b></p> <p>11 Q. (BY MR. KING) What if the hypothetical is true, 12 the bias would only be in one direction, correct?</p> <p><b>13 A. I think -- I think -- I think I've acknowledged 14 that, but I think for the purpose of being clear, it's 15 important just to say that they don't -- you know, in the 16 absence of evidence, the opposite is equally likely.</b></p> <p><b>17 Maybe -- maybe there's a lot of South Asians 18 to leave first I have no idea. But obviously, you know, 19 if you do something else before you get fired because 20 you're told you're going to get fired tomorrow, then 21 getting fired is not necessarily the -- you know, the be 22 all and end all indicator of the company wanting to get 23 rid of you.</b></p> <p><b>24 Q. Have you done any analyses of Visa holders 25 relative to non-Visa holders in any fashion in this case?</b></p>	<p>Page 92</p>

<p style="text-align: right;">Page 93</p> <p>1     <b>A. Not directly except obviously a lot more of the 2 South Asians are Visa holders.</b></p> <p>3     Q. But you didn't separately look at how non-Visa 4 holding South Asians might fair?</p> <p>5     <b>A. Correct.</b></p> <p>6     Q. Did you consider whether the potential mobility 7 of South Asians versus non-South Asian in the US may 8 differentially affect the likelihood of obtaining a job if 9 they are on the bench?</p> <p>10    <b>A. No, I have no -- I have no data that I'm aware of 11 on -- well, certainly on a potential mobility obviously or 12 actual mobility. Well, let me see potential -- potential 13 mobility.</b></p> <p>14    Q. Right. When you look at the specific reasons for 15 termination, it's on Table 7, page 29.</p> <p>16    <b>A. Got it.</b></p> <p>17    Q. Would you agree there are three primary reasons 18 for involuntary termination: Redundancy, chronic 19 nonbillable and poor performance?</p> <p>20    <b>A. Well, I mean, I -- I sorted these by order of how 21 many there are, and those -- those are the three biggest. 22 One could argue disciplinary issues at 530 is pretty 23 close, and then there's a pretty big drop off.</b></p> <p>24       (Simultaneous speakers.)</p> <p>25    Q. Yeah.</p>	<p style="text-align: right;">Page 95</p> <p>1 poor performance, you got fired because of disciplinary 2 issues.</p> <p>3       <b>We have very little data on people getting 4 fired even without a reason.</b></p> <p>5     Q. What's your understanding of chronic nonbillable?</p> <p>6     <b>A. My understanding of chronic nonbillable is from 7 the bench, and I -- I know -- I sort of know what that 8 means aside from documents because my son is a consultant, 9 so I know what on the bench means because -- he's never 10 been there more than a couple of days, but he gets very 11 nervous, but he becomes -- he becomes bill -- fortunately 12 he becomes billable quickly.</b></p> <p>13       <b>I don't know -- I don't know if it 14 encompasses anything else, but I don't -- I don't think it 15 is.</b></p> <p>16    Q. Would you disagree that the time you are likely 17 to spend on the bench will increase the more selective you 18 are about accepting subsequent employment?</p> <p>19    <b>A. So you have in mind a scenario where I'm on the 20 bench and I get offered assignments and turn them down.</b></p> <p>21    Q. Yes.</p> <p>22    <b>A. I mean, by definition of the way you set it up, 23 yes, I have no idea if that happened. My -- from what I 24 know of -- my kids know their MBA friends, they never turn 25 them down, but maybe, you know, that's -- I don't know</b></p>
<p style="text-align: right;">Page 94</p> <p>1     <b>A. Predominant is a --</b></p> <p>2     Q. -- we can include disciplinary issues.</p> <p>3     <b>A. Okay. All right.</b></p> <p>4       <b>THE WITNESS: Sorry, Sara.</b></p> <p>5     <b>A. Those are the biggest.</b></p> <p>6     Q. (BY MR. KING) Okay. Looking at discipline, 7 would you agree that disciplinary problems typically are 8 more prominent among younger employees than older 9 employees?</p> <p>10    <b>A. I have no idea. If they were 16, it wouldn't 11 surprise me, but they're probably not 16.</b></p> <p>12    Q. What about tenure, would you think that 13 disciplinary problems are more common among long-tenured 14 employees rather than short-tenured employees?</p> <p>15    <b>A. I mean, I could -- I could invent stories either 16 way, you know, you're young, you want to keep your job. 17 You're old, and you feel protected. I mean, I'm a tenured 18 professor which is a different definition of the word 19 tenured, so I can really misbehave but that's not the 20 point.</b></p> <p>21    Q. Yeah.</p> <p>22    <b>A. But, you know, I'm not aware -- put it this way, 23 I'm not aware of, I think, of any labor economics research 24 where we have data on these kinds of things by which, I 25 mean, some kind of, you know -- you got fired because of</b></p>	<p style="text-align: right;">Page 96</p> <p>1 more. That's anecdotal I will acknowledge.</p> <p>2     Q. Okay.</p> <p>3     <b>A. They want to get back to work, and consultants 4 travel all the time.</b></p> <p>5     Q. What's your understanding of redundancy?</p> <p>6     <b>A. Well, the English use it the same way we use 7 unemployed. So I'm always a little confused by that term. 8 But I think that just means we don't really need you, you 9 know, whether work has diminished or whatever. But I'm 10 not -- it's a label they use. I don't know exactly what 11 it is in this context.</b></p> <p>12    Q. Do you understand whether redundancy is 13 determined on an individual basis or is it the case that a 14 unit of employment can be discontinued?</p> <p>15    <b>A. I would interpret it in general as -- as more 16 likely due to -- well, yeah, I mean, not the immediate. 17 I -- I -- my -- I'm shooting from the hip here because I 18 don't have -- I didn't -- I haven't read anything that 19 sort of explains what these are.</b></p> <p>20       <b>But looking at the labels, it doesn't look 21 as much like an independent behavioral kind of category, 22 but I'm only supplying an educated guess to be clear, just 23 because a lot of other ones do sound like that. That's 24 why I'm saying that.</b></p> <p>25    Q. Look at Table 7. I just want to understand the</p>

Page 97		Page 99
1 column heading that says "Percent of involuntarily 2 terminated for a reason."		1 Thank you.
3 <b>A. The "of" -- the "of" is confusing. The "of"</b>		2           MR. KING: I'm finished. Thank you very
4 <b>should -- the "of" shouldn't be there. Well, it's the</b>		3 much, Dr. Neumark.
5 <b>percentage -- the tot- -- if you take the percentages,</b>		4           THE VIDEOGRAPHER: Shall we conclude?
6 <b>let's say the one -- the fourth column, the one for</b>		5           MR. KING: Yes.
7 <b>South Asians --</b>		6           THE VIDEOGRAPHER: Okay. Going off the
8     Q. Yeah.		7 record at 1:38. Thank you, everyone.
9 <b>A. -- and you add up all those percentages, you will</b>		8           (Deposition concluded at 1:38 p.m.)
10 <b>get the overall termination rate. So this is -- this is</b>		9
11 <b>the percent involuntarily terminated for a reason -- well,</b>		10
12 <b>as long as a reason is always recorded. But you can be</b>		11
13 <b>involuntarily terminated for one reason, and they should</b>		12
14 <b>add up in principle to the total involuntary terminations.</b>		13
15     Q. Right. The percentages, if I understand it		14
16     correctly, are the percentage of all those who could have		15
17     been terminated --		16
18 <b>A. Right.</b>		17
19     Q. -- as opposed to the denominator of only those		18
20     who, in fact, were terminated?		19
21 <b>A. Correct. That's why -- that's why down the</b>		20
22 <b>column it adds up to --</b>		21
23     Q. Right.		22
24 <b>A. -- to the overall involuntary termination rate,</b>		23
25 <b>so the "of" is a little -- it should probably -- because</b>		24
		25
Page 98		Page 100
1 <b>it makes it a little less clear than it could.</b>		1           IN THE UNITED STATES DISTRICT COURT
2     Q. Okay.		2           FOR THE SOUTHERN DISTRICT OF TEXAS
3     MR. KING: A five-minute break, please.		3           HOUSTON DIVISION
4     VIDEOGRAPHER: Going off the record at 1:29.		4     JAMES PHILLIPS, ET AL. )
5     (Recess taken from 1:29 p.m. to 1:37 p.m.)		5     Plaintiffs      )
6     VIDEOGRAPHER: And we are back on the record		6                )
7     at 1:37. You may proceed.		7     VS.              ) Civil Action No.
8     MR. KING: I'll pass the witness.		8                ) 4:18-cv-00821
9           EXAMINATION		9                )
10 BY MR. LOW:		10           WIPRO LIMITED,      )
11     Q. Just one question, Dr. Neumark. You were asked a		11           Defendant      )
12     bunch of questions about what was in your report and what		12                )
13     analyses you have done in your report.		13                )
14     Is it fair to say that the best source of		14           REPORTER'S CERTIFICATION
15     what you did in your report is to read the report itself?		15           DEPOSITION OF DAVID NEUMARK, PH.D.
16 <b>A. I hope so, yes.</b>		16           TAKEN AUGUST 25, 2021
17     Q. And if you had any details, it would be reflected		17           I, SARA BIELAMOWICZ, Certified Shorthand Reporter
18     in your report?		18           and Notary Public in and for the State of Texas, hereby
19 <b>A. Of course. There's a lot of details. There's a</b>		19           certify to the following:
20 <b>lot of table notes and, you know, I reviewed it, but I --</b>		20           That the witness, DAVID NEUMARK, PH.D., was duly
21 <b>it's not -- you know, not like you would for a college</b>		21           sworn by the officer and that the transcript of the oral
22 <b>exam where I can't look anything up. I always -- I always</b>		22           deposition is a true record of the testimony given by the
23 <b>am clear that -- and I hope everyone agrees that</b>		23           witness;
24 <b>depositions are not memory tests.</b>		24           That the original deposition was delivered to Mr.
25     MR. LOW: I don't have any other questions.		25           Allan G. King;

1 of the deposition.  
2 I further certify that I am neither counsel for,  
3 related to, nor employed by any of the parties in the  
4 action in which this proceeding was taken, and further  
5 that I am not financially or otherwise interested in the  
6 outcome of the action.  
7 Subscribed and sworn to on this the 9th day of  
8 September, 2021.  
9

10   
11 SARA BIELAMOWICZ, CSR, RPL

12 CSR NO. 4838; Expiration Date: 1-31-23  
13 Lexitas - Firm Registration No. 95  
14 13101 Northwest Freeway, Suite 210  
15 Houston, Texas 77040  
16 281-469-5580

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